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Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions

§101. Definitions

A. Wherever in these regulations the masculine is used, it includes the feminine and vice versa. Wherever the singular is used, it includes the plural and vice versa. The following definitions shall apply to all regulations promulgated under Part I, unless the usage clearly indicates another meaning.

Active Member—a member of the Louisiana State Employees' Retirement System who is in state service.

Active Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are active employees, or participating in DROP.

Board of Trustees or *Board*—the board of trustees of the Louisiana State Employees' Retirement System.

Department—a department in the executive branch of state government created or continued in Title 36 of the Louisiana Revised Statutes.

Director—the executive director of the Louisiana State Employees' Retirement System.

DROP—Deferred Retirement Option Plan.

Emolument—cash compensation, which is subject to federal and state income taxes, paid to an employee in addition to the employees' salary, but shall not include overtime, per diem, differential pay, premium pay, or payment-in-kind.

Inactive Member—a member who is out of state service but is not retired and has left his contributions in the system.

LASERS—the Louisiana State Employees' Retirement System.

Regular Retirement—retirement under the criteria set forth in R.S. 11:441.A.(1), (2), and (3), R.S. 11:558, R.S. 11:582 and R.S. 24:36.C and does not include early retirement, as provided for in R.S. 11:441.A.(4).

Retired Member—a member who is retired or is participating in DROP.

Retired Member Trustee—those members of the board of trustees of the Louisiana State Employees' Retirement System who are retired, but not those members who are participating in DROP.

System—the Louisiana State Employees' Retirement System.

Terminate—to completely cease employment with the state of Louisiana for a period of not less than 30 consecutive days.

Trustee—a member of the board of trustees of the Louisiana State Employees' Retirement System.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:120 (January 1998).

§103. Petitions for Adoption, Amendment, or Repeal of Rules; Form and Procedure

A. Petitions for the adoption, amendment, or repeal of rules or regulations shall be submitted to the executive director of the Louisiana State Employees' Retirement System, First Floor, 8401 United Plaza Boulevard, Baton Rouge, LA 70809.

B. Petitions shall be in writing and shall state the name and address of an individual who may be contacted relative to the contents of the petition.

C. Petitions shall clearly state the action sought. If the petitioner seeks to amend or repeal an existing rule or regulation, the petition shall cite that rule or regulation.

D. In the case of proposals for adoption of wholly new rules or regulations, petitions shall state the law granting the authority for the adoption of the proposed rules and regulations.

E. Petitions for the adoption, amendment, or repeal of rules or regulations shall be considered within a reasonable amount of time, not to exceed 90 days. Petitions shall either be denied in writing, stating reasons for the denial, or rule-making proceedings initiated in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§105. Petitions for Declaratory Rulings on the Applicability of Agency Statutes, Rules or Orders

A. Requests for interpretations of rules or orders of LASERS shall be submitted to the executive director of the Louisiana State Employees' Retirement System, First Floor, 8401 United Plaza Boulevard, Baton Rouge, LA 70809.

B. Letters shall be in writing and shall state the name and address of an individual who may be contacted relative to the contents of the petition.

C. Letters shall clearly state the action sought. The petitions shall cite the particular statutory provisions, rules or orders of LASERS upon which the petitioners seek declaratory action.

D. Requests for interpretations of rules or orders of LASERS shall be considered within a reasonable period of time, not to exceed 90 days of receipt by LASERS. Petitions shall either be denied, in writing, stating reasons for the denial, or declaratory orders or rulings issued within that 90-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§107. Appeal to the Board of Trustees

A. All persons who feel that their rights under LASERS have been denied or impinged upon may appeal directly to the board of trustees for LASERS through the executive director using the following format:

1. all appeals shall be in writing;
2. all appeals shall clearly state the nature of the act or omission giving rise to the appeal;
3. the petition for appeal shall clearly state whether a hearing is requested. If a hearing is requested, the petition shall state whether witnesses will be called, the name of the witnesses, the subject upon which the witness will testify, and an estimate as to the time needed to present the appeal; and
4. LASERS shall attach a complete record of the events leading up to the appeal letter.

B. Any final decision rendered on an appeal to the board of trustees may be judicially reviewed by the Nineteenth District Court for the Parish of East Baton Rouge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

A. Elections for active member trustees shall be held in years ending with an odd number. Three active member trustees shall be chosen in each election and shall serve a four-year term.

B. The schedule for elections shall be as follows:

1. second Tuesday in June: nominations shall be opened;

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time);

3. Friday following second Tuesday in July: a drawing shall be held to determine candidate positions on a ballot;

4. fourth Friday in September: the final day that information on candidates and ballots may be mailed;

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time). No faxed ballots shall be accepted;

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified;

7. regular November meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results;

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000).

§303. Election Rules

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the second Tuesday in July, the date on which nominations close. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by the final four digits of their Social Security numbers. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

B. The three candidates who receive the most votes shall be declared successful candidates and presented to the board.

C. There shall be a drawing at 11 a.m. on the Friday following the second Tuesday in July, in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed or mailed by the fourth Friday in September. Every active contributing member appearing on the June Monthly Retirement Reports shall receive a ballot or election brochure for voting. Participants in the DROP program shall vote in the active members' election and shall have ballots or election brochures mailed to their homes.

E. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

F. All valid ballots shall be tallied on Wednesday following the fourth Friday in October. Envelopes, valid ballots, and electronic information displaying individual votes shall be destroyed after the results of the election have been promulgated by the board of trustees.

G. Ties affecting elected positions shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

H. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

I. Upon receipt of the results of the election, the board of trustees shall timely promulgate the election and notify the successful candidates of their election and the secretary of state, so as to allow the candidates sufficient time to take and file the oath of office with the Secretary of State within the time specified by law.

J. Active members cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any member who is running for election or re-election to the board. Active member candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 31:946 (April 2005).

§305. Vacancies; Special Elections

A. The board shall appoint a member to fill any active member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the active member position, and shall be the member who garnered the next highest vote in the previous election, if that member is willing to serve and the appointment does not violate law or these regulations.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election. Candidates for four year terms may not also be candidates to complete unexpired terms.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997).

§307. Optional Retirement Plan Participants

A. Because optional retirement plan participants do not acquire service credit for purposes of determining eligibility under R.S. 11:511(4), these participants will not be eligible to vote in the trustee elections or run for a position on the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:2633 (November 2000).

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

A. Beginning in 1995 and continuing thereafter every four years, two retired member trustees shall be chosen in an election and shall serve a four year term. Beginning in 1997 and continuing thereafter every four years, a single retired trustee shall be chosen in an election and shall serve a four year term.

B. The schedule for elections shall be as follows:

1. second Tuesday in June: nominations shall be opened;

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m.);

3. Friday following second Tuesday in July: a drawing to determine candidate positions on a ballot shall be held;

4. fourth Friday in September: the final day that information on candidates and ballots may be mailed;

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central Standard Time);

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified;

7. regular November meeting: the board shall accept the certified ballot count and shall authorize publication of results;

8. regular December meeting: newly elected members receive orientation; oaths shall be taken prior to the following January meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

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HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000).

§503. Election Rules

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by the final four digits of their Social Security numbers. All nominations for the board of trustees election must be in the office of the retirement system no later than the second Tuesday in July, close of business (4:30 p.m. Central Daylight Savings Time).

B. For purposes of this Chapter, the term *retired member* shall not include any person still employed by the state but treated as retired under the Deferred Retirement Option Plan.

C. There shall be a drawing on the Friday following the second Tuesday in July at 11 a.m. Central Daylight Savings Time in the Retirement Systems Building, 8401 United Plaza Boulevard, Baton Rouge, LA, to determine the position each candidate shall have on the ballot or election brochure. All candidates may attend or send a representative to the drawing.

D. Ballots or election brochures shall be distributed to each retired member by the fourth Friday in September. Every retiree member appearing on the June Retiree Master List shall receive a ballot or election brochure for voting.

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes.

F. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. Central Standard Time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

G. All valid ballots or electronic votes shall be tallied on the Wednesday following the fourth Friday in October. Envelopes and valid ballots shall be destroyed after the results of the election have been promulgated by the board of trustees.

H. Tie votes shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

I. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

J. Upon receipt of the results of the election, the board of trustees shall timely promulgate the election and notify the successful candidates of their election and also notify the secretary of state in order that the candidates may take their oath of office and file it with the secretary of state within the time specified by law.

K. Retiree candidates cannot solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any retiree candidate who is running for election or re-election to the board. Retiree candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:947 (April 2005).

§507. Vacancies; Special Elections,

A. The executive board of the retired state employees association shall appoint a member to fill any retired member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the retired member position.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneously with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 23:998 (August 1997).

Chapter 7. Purchase of Military Service

§701. Purchase of Military Service

A. A maximum of four years of credit for military service may be purchased by active members who rendered military service in accordance with R.S. 29:411, 412, and 415.1, provided the active member received a discharge other than dishonorable. This provision shall not be applicable to DROP participants (R.S. 29:415.1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000).

§703. Requirements for Application to Purchase Military Service

A. In order to apply for purchase of the service, an active member shall:

1. make application to LASERS;
2. provide a copy of military form DD214;
3. certify that he is not drawing a regular retirement benefit based on the military service calculated on the basis of age and service (This restriction does not apply to disability benefits based on 25 percent or less disability received as a result of military service);
4. certify that he has not received credit for the service in any other public retirement system; and
5. pay \$75 for the calculation of the actuarial calculation to determine the cost to purchase the service.

B. The active member shall pay the actuarial cost to receive the service credit. Upon receipt of the items listed above, LASERS shall issue an invoice to the active member. The invoice is void if not paid within 90 days after the date issued. Payment shall be made in a lump sum.

C. Military service not purchased within four years of the active members reemployment under the provisions of Chapter 7 cannot be used to establish eligibility for regular retirement.

D. If an active member dies before the four-year period of eligibility to repurchase his or her military time, a beneficiary or survivor has the right to pay the required contributions in order to have the member's military service computed in the computation of any death of survivor benefits payable under the system. If the beneficiary or survivor chooses not to pay the member's contribution, the computation of death and survivor benefits shall be based on the actual service credit of the active member, excluding his or her military service.

E. The payment of the cost shall be credited to the active member's account. If the active member later separates from state employment and requests a refund of contributions, the amount paid shall be refunded along with other employee contributions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 9. Retirement Credit for Active Members of the Military Reserves

§901. Requirements

A. In order to qualify for retirement credit for military service, at the time the individual was called to active military service, he or she shall have been:

1. a state employee in a position that is other than temporary including, but not limited to, probational and permanent Civil Service positions;
2. an active member of the Louisiana State Employees' Retirement System;
3. a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, Air Force Reserve, or the Coast Guard Reserve (hereinafter called reservist) called to active duty; and

4. shall have been released from active duty after satisfactory completion of military duty, in accordance with the provisions of 50 U.S.C. §459. Release shall have been other than dishonorable.

B. The member, at his option, shall pay the required employee contributions to the retirement system during his period of service in the uniformed service, or if he chooses not to make such payment during his military duty, he is entitled to purchase such credit in accordance with §901 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§903. Exclusions

A. Employees who were in temporary positions such as, but not limited to, restricted appointments, job appointments, provisional appointments, and student workers are not eligible for retirement credit. Elected officials and appointed officials in positions established by the constitution or laws of the state are eligible for retirement credit. Reservists who were participating in the Deferred Retirement Option Plan at the time of military service are not eligible to receive service credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411, R.S. 29:415.1 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§905. Limitations

A. Reservists may not receive more than a total of four years of military service credit in the retirement system for military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

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HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§907. Credit for Eligibility or Benefit Purposes

A. Under the provisions of the Act, a reservist shall receive credit for purposes of determining eligibility for retirement at no cost to the individual or agency. In order to receive credit for purposes of calculating the retirement benefit, contributions shall be paid to the retirement system within four years of release from active military duty. If the employee was on paid leave during the period of active military service, the employee has received retirement credit for that service and no additional information need be furnished to the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§909. Certification of Military Service

A. In order to receive retirement credit for eligibility or benefits purposes, the employee shall provide:

1. discharge or release notice (Form DD214) and any other pertinent documentation from the appropriate military entity which provides the inclusive dates of active service or discharge from hospitalization incidental to the military service;

2. documentation from the agency certifying that the reservist was employed in a position other than temporary on the date the active duty began; and

3. certification from the agency that the reservist applied for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§911. Differential Payments Made by the Agencies

A. Many reservists active duty base pay may be less than their state base pay. The reservist may elect to pay contributions on the entire amount of state earnings that would have been received in order to receive retirement credit for benefit purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§913. Payment of Contributions after Military Service Is Completed

A. The employer shall pay the employer contribution plus interest.

B. The amount of contributions is based upon the amount of earnings the employee would have received if still employed. This includes any increases in compensation the employee would have received if he or she had remained in employment during the period of military service. If the employee's compensation varies, such as for legislators, the average monthly earnings for the 12 months preceding the active military service shall be used to determine the amount of contributions.

C. The employer shall determine the amount of earnings that would have been earned and compute the employee and employer's contributions that are due plus interest. The interest should be calculated from the date the contributions would have been made to the date the payment is made to LASERS. LASERS shall provide interest tables to the agencies for the calculation of interest.

D. The employee shall pay the employee contributions, plus interest, to the agency. The agency shall remit the employee and employer contributions, plus interest, to LASERS within 30 days after the employee has paid his or her portion. The agency shall provide a monthly breakdown of the earnings and contributions for each reservist and the certification documents to LASERS.

E. All payments shall be made in a lump sum within four years after the reservist returns to employment in order for the reservist to receive credit for benefit purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§915. Death and Survivor Benefits

A. The period of military service received under the provisions of Chapter 9 shall be counted as creditable service for determining eligibility for death and survivor benefits. The amount of survivor benefits payable shall be calculated as provided for in R.S. 11:471 et seq.

B. The final average compensation used for the calculation shall be based on the actual earnings of the member. In order for the estimated earnings during the period of military service to be used in the determination of the final average compensation, the employee and employer's contributions shall be paid for the period of military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414, R.S. 29:415 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. Application Process for Voluntary Payroll Deduction

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall

be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;
2. the group insurance plan administered by the Department of Employment and Training;
3. the Retired State Employees' Association;
4. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;
5. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;
6. other member or retiree associations approved by the board of trustees; and
7. vendors receiving payment through voluntary deductions on the effective date of these rules.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

D. All vendors shall file annual renewal applications with LASERS.

E. Applications shall be received by LASERS between June 1 and July 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1103. Applicant and Vendor Requirements

A. General insurance vendors shall meet the requirements established by the Division of Administration and shall be included on the annual listing maintained by the Office of State Uniform Payroll.

B. Any provider who qualifies to submit an application under §1101.B.5 or B.7 above shall meet the regulatory requirements of the appropriate federal or state regulatory agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1105. Notification, Implementation and Transition

A. LASERS shall notify applicant whether applicant is approved as a vendor.

B. Vendors shall enroll retirees for a monthly deduction amount.

C. Participation shall be at least 100 retirees.

D. If a vendor falls below the participation level of 100 retirees, LASERS has the right to discontinue the payroll deduction immediately.

E. Vendors shall be allowed 12 months after initial approval to meet the minimum participation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1107. Deduction Authorization

A. Vendors shall be responsible for obtaining and maintaining appropriate deduction authorizations from individual retirees. Copies shall be made available to LASERS upon request.

B. Any disclaimer, contract, or term of participation agreement between the retiree and the vendor or provider shall not be binding on LASERS.

C. A retiree shall have only one monthly deduction (which may cover more than one benefit) for a single vendor effective at any one time.

D. Vendor is responsible for submitting a computer tape of monthly deductions to LASERS by the twelfth day of the month preceding the deduction using the tape format and specifications established by LASERS. All deductions for a single vendor shall be submitted on one monthly tape.

E. A retiree may discontinue any voluntary payroll deduction amount by providing written notification of that intent to the vendor.

F. A retiree cannot authorize total deductions which exceed the amount of the benefit less \$5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1109. Solicitation of State Retirees

A. Retirees may be solicited for payroll deduction only after the vendor has been notified that the application has been approved. Materials used for solicitation shall be approved in advance by LASERS and shall include a disclaimer stating that the product offered is not endorsed by LASERS. Solicitation materials shall be submitted with the annual renewal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1111. Vendor Responsibilities

A. Vendor coordinators shall be responsible for dissemination of information such as the requirements of this rule to vendor representatives and shall submit solicitation material to LASERS for approval.

B. Vendors shall use the invoice and billing identification structure specified by LASERS to facilitate the monthly reconciliation.

C. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction.

D. Monthly reconciliation shall include total monthly invoice amount, remittance amount, and a listing of all changes since the last invoice amount to include a listing of exceptions between the invoice and deduction or remittance by system.

E. Monthly reconciliation exception listing shall identify the retiree by Social Security Number.

F. Vendors shall furnish evidence of monthly reconciliation to LASERS unless specifically exempted by LASERS.

G. Vendors failing to provide accurate and timely reconciliation verification shall be barred from active solicitation until satisfactory certification is submitted to LASERS.

H. Vendors shall not be authorized to submit any deduction which was obtained from a retiree for the purpose of transmitting any part of that deduction to a third party.

I. Vendors shall designate or identify specific products or basic services provided on the application form. Vendors shall indicate whether the request (for each product or service) is for continuation or renewal, or new or not previously approved for payroll deduction. Vendors shall not add products or services to payroll deduction which are not indicated on the currently approved application.

J. The vendor is responsible for refunding any amounts deducted in error to the individual retiree.

K. Any information received from LASERS shall be handled in accordance with the Louisiana Public Records law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1113. LASERS' Responsibilities

A. LASERS shall approve or reject solicitation material presented by designated coordinators of approved vendors. LASERS shall have the sole authority to approve or disapprove a payroll deduction.

B. LASERS shall be responsible for making the monthly deductions in the amount that are timely submitted by the vendor.

C. LASERS shall remit the amount deducted to the vendor and shall provide a listing of all exceptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1115. Reporting

A. Vendors shall report within 10 days of final approval any change in the name, address, company status, principal officers, or designated coordinator to LASERS.

B. Vendors shall provide, as required by LASERS, data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the system in providing deduction information.

C. Annual renewal applications shall list specific products or services provided. Deductions shall be made only for the products or services listed on the annual application.

D. Vendors are required to report the dismissal of any representative participating in retiree payroll deduction to LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1117. Fees

A. Data, information, reports, labels, or any other service provided to any vendor or any other party shall be subject to payment of a fee by the vendor for the cost of providing the data, information, report labels, or services as established by LASERS. LASERS shall only provide that information necessary for the vendor to provide services to LASERS' retired members.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1119. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor shall result in the termination of deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in retiree payroll deduction for any vendor.

C. Payroll deduction authority shall be revoked for any vendor that is removed from the annual listing maintained by the Office of State Uniform Payroll.

D. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

§1121. General Provisions

A. Payroll deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant or vendor or its products or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

Chapter 13. Emergency Refunds

§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or
2. the member has significant expenses for medical care for himself, spouse, or child; or
3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment.

B. The member shall provide a written request detailing the emergency situation and the executive director shall approve or disapprove the request based on this written request.

C. Emergency refunds are available on a one-time basis only. Once a member has taken advantage of this single opportunity and has received a refund under the terms of this Chapter, that member shall no longer be eligible for an emergency refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005).

§1303. Procedure for an Emergency Refund

A. The member or beneficiary shall provide a copy of the death certificate, a doctor's statement of total and permanent disability, a copy of medical invoices, or copies of other pertinent documentation to qualify for the emergency refund. Outstanding bills must be payable prior to the date the individual would otherwise receive the

refund, or other like economic hardship must be shown to be considered sufficient reason for declaring an emergency situation.

B. Upon receipt of the documentation and approval by the executive director, the retirement system shall issue the refund at the next scheduled date for issuing refund checks. The refund amount shall include all employee contributions received from the employing agency and posted to the individual's account. Any additional contributions received at a later date from the agency shall be refunded to the individual after they are received and posted to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 537(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1305. Responsibility for Overpayment of a Refund

A. If the amount that is refunded is greater than the amount actually due the individual, the agency paying the contributions shall be responsible for recouping any overpayment from the individual who was overpaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1711 (December 1997).

Chapter 15. Purchases and Transfers of Service

§1501. Purchases and Transfers of Service; Calculations; Costs

A. The purchase of service on an actuarial basis and the transfer of service from other public retirement systems into LASERS requires an actuarial calculation by the system actuary.

B. The cost of this calculation shall be paid by the member requesting the calculation. Payment must be made before the request for the calculation will be forwarded to the actuary.

C. Cost for the initial calculations shall be at least \$75, and for multiple calculations the second and succeeding calculations shall cost less than \$75, the amount to be established by the system's actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1503. Transfers of Service; Other Requirements,

A. In order to transfer service credit from other public retirement systems into LASERS, the person seeking such a transfer must be:

1. an active member contributing to the LASERS at the time they apply for the transfer; or

2. an active member of a public retirement system maintained primarily for officers and employees of the state of Louisiana, or any political subdivision thereof, or of any district, board, commission, or other agency of either, or any other such public entity who has been a member of such system for at least six months and who has membership credit in such system shall have the option of transferring all of his credit from such system he is currently contributing to or to the system in which he last contributed. However, membership in a public retirement system cannot be changed to another public retirement system, and any person participating in DROP cannot transfer any service credit into or out of that retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:143 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 17. Purchases of Service by Reinstated Employees

§1701. Purchases of Service by Reinstated Employees

A. When an employee is reinstated to a position in state government by the Department of Civil Service or a court of law, the employee is entitled to receive retirement service credit for the period of time that is reinstated provided payment of employee and employer contributions, plus interest, is made to the retirement system within 60 days of the reinstatement.

B. If reinstated, the employee shall pay an amount equal to the current employee's contributions based on the earned compensation for the period of time that was reinstated. The employing agency shall pay the employer contributions that would have been due plus compound interest at the actuarial valuation rate for all contributions payable from the date the contribution was due until paid.

C. When a reinstated employee is entitled to back pay from the employing agency, the agency shall remit the employer and employee's contributions that would have been due if the employee had been employed during that time, plus interest. The agency shall also provide LASERS with a report of earnings on a monthly basis for the period for which the individual was reinstated.

D. If a member has received a refund of contributions after a wrongful termination, he must repay the refund not later than the sixtieth day following the first day the member returns to work after reinstatement is ordered for the member's retirement status and service credit to be fully restored.

E. Any costs to the retirement system associated with these procedures shall be paid by the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999).

§1703. Effect of Reinstatement

A. Employees reinstated into state government shall be entitled to purchase service credit as provided in this Chapter, and the employee shall be treated as if he was a member during this period of purchased service credit, except that the reinstated employee will not be entitled to partial repurchase provisions for the service credit that is reinstated through legal action.

B. The reinstated employee's date of hire prior to the wrongful termination shall be used for retirement purposes, if any contribution refund that the member received is repaid not later than the sixtieth day following the first day the member returns to work after reinstatement is ordered. If the member repays all or any portion of such contribution refund after the sixtieth day following the first day the member returns to work after reinstatement is ordered, the repayment shall be treated in the same manner as a payment for any other refund and the date of hire for retirement purposes shall be the first day the member returns to work after reinstatement is ordered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999).

§1705. Service Credit for Dual Employment

A. Any active member who qualifies to purchase service credit under the provisions of R.S. 11:191.B may purchase the service credit to which he would have been entitled in the system had he been an active contributing member of the retirement system during the full term of his employment by paying to the system an amount that totally offsets the actuarial cost of the receipt of the service credit.

B. The employer for that employee may pay one-half of the actuarial cost of the receipt of the service credit, thereby reducing the member's cost to one-half of the actuarial cost of the service credit. If the employer pays one-half of the actuarial cost for one employee, it shall be obligated to pay one-half of the actuarial cost of all employees who qualify to purchase this service credit.

C. The full amount must be received by the system, whether the member is paying the full cost, or the employer is paying one-half and the member one-half, prior to any service credit being attributed to a member's account. The amount must be paid in a lump sum.

D. A fee of at least \$75 (to be set by the system's actuary) must be paid to the system's actuary by the individual requesting the calculation. Payment must be made before the request for calculation will be forwarded to the actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1707. Repayment of Refund of Contributions

A. A member who received a refund or employee contributions may repay the refund after the member has returned to state service and contributed to the system for a minimum of 18 months, by paying to the system the employee contribution refund plus interest compounded annually at the actuarial valuation rate for all contributions payable from the date the refund was issued until paid in one lump sum, or by partial repayment in accordance with the following Section.

B. Repayment of refunds must be completed prior to retirement or beginning participation in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:2467 (December 1999).

§1709. Partial Repayment of Refund of Contributions

A. If a member elects to repay part of a refund, he must repay the contributions for the most recent service credit first. For example, if a member received a refund for service from January 1, 1991 through December 31, 1993, and elects to repay one year of service, he/she must repay the contributions for 1993 first.

B. Partial payments must be made in increments based on service within a calendar year with the most recent year(s) repaid first. Example: A member worked from June 1, 1990 through April 30, 1993 then received a refund. The refund may be repaid in the following order:

1. January 1, 1993 through April 30, 1993;
2. January 1 through December 31, 1992;
3. January 1 through December 31, 1991; then
4. June 1 through December 31, 1990.

C. If a member has both full time and part time service credit that was refunded, the years of full time service must be repaid first. When there is both full time and part time service within the calendar year(s), LASERS shall have the authority to determine the calendar year of service credit that must be repaid first. As a general rule, the year(s) with the most full time service must be repaid before the year(s) with more part time service.

D. Upon receipt of the partial payment, the service credit for the calendar year repaid will be restored to the member.

E. A member may receive three invoices in a 12-month period at no cost. Each additional invoice within the 12-month period will cost \$75 each.

F. Interest at the actuarial rate will be calculated from the date of the refund was issued to the date of the repayment. Interest will be compounded on an annual basis.

G. The partial repayment must be made in a single payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:2467 (December 1999), amended LR 29:2859 (December 2003).

Chapter 19. Survivors' Benefits**§1901. Application for Benefits**

A. Survivors' benefits are payable only upon application therefor, but the benefit becomes effective as of the day following the death of the member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:471 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1903. Qualified Survivors

A. The following individuals qualify for survivors' benefits:

1. surviving spouse with minor children;
2. handicapped or mentally retarded children;
3. surviving minor child not in custody of surviving spouse; and
4. surviving spouse without minor child.

B. The survivors' benefit is a single benefit payable to multiple qualifying groups. If more than one individual qualifies for the benefit, the benefit shall be prorated between or among the qualified individuals in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:472, R.S. 11:473, R.S. 11:474, R.S. 11:475, R.S. 11:480 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1905. Proof of Entitlement to a Survivors' Benefit

A. Each survivor benefit recipient shall present proof to LASERS upon application, and annually or at such other times LASERS feels necessary, that he is legally entitled to the survivor's benefit. If the applicant for the benefit fails to present such proof to LASERS, LASERS shall deny such benefit to the applicant or discontinue the benefit if the recipient fails to provide such proof upon reasonable request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:477 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 22:373 (May 1996).

§1907. Qualification for Benefit to Handicapped Children

A. Totally physically disabled or mentally handicapped children of deceased members who are not dependent upon the surviving spouse of the member or some other legal guardian and who do not also receive state assistance are eligible under the provisions of Chapter 19.

B. In order to cover this area not addressed by the statute, it will be the policy of the Louisiana State Employees' Retirement System to pay survivor's benefits to otherwise qualified physically disabled or handicapped children of deceased members who have neither a surviving parent or legal guardian if such child, or a person holding a power of attorney or other legal authority to act on behalf of such child, provides to the system adequate annual documentation demonstrating that benefit payments will be used exclusively for the support and care of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1909. Children of Previous Marriage

A. If a married member has major children of a prior marriage and no minor children of the present marriage, that member may direct LASERS to divide the benefit for a surviving spouse without minor children between the member's current spouse and the children of the prior marriage on a pro rata basis with the interest of the current spouse based on the ratio of the length of the current marriage to the total state service of the member. For this benefit to be effective, the member must notify LASERS, in writing, that the member desires this benefit. LASERS must receive this notification prior to the member's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:475 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 21. Credit for Part-Time Service and Service in Multiple Positions

§2101. Credit for Part-Time Service and Service in Multiple Positions

A. Members of the Louisiana State Employees' Retirement System shall receive service credit, up to a maximum of one year of service per calendar year, for all service which is rendered for an employer agency, as defined in R.S. 11:403(12), and which is *state service*, as defined in R.S. 11:403(28).

B. All compensation for such service, which meets the criteria of R.S. 11:403, shall be recognized by the system, and employer and employee contributions must be paid thereon.

C. Any employee who is part-time, seasonal, or temporary, as defined in 26 CFR 31:312(b)(7)-2, or in any successor regulation, shall not be or become a member of the system, except membership for these employees shall be mandatory if the employee has 10 or more years' creditable service in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 23. Renunciation of Benefit

§2301. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446.E.

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

14. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 25. Procedures for Processing Disability Applications

§2501. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within five business days of receipt of the application.

2. The application, examining physician's report, the disability report by immediate supervisor, and report by applicant's human resource administrator shall be reviewed for completeness.

3. If the application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have 10 business days to furnish the requested information. If the applicant fails to comply with this request the application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be notified in writing by LASERS within 10 business days of the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998), LR 27:1580 (September 2001).

§2503. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical review, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the board or as an alternate physician to perform the initial medical review.

C. The State Medical Disability Board physician shall determine from his review whether to conduct a medical examination of the applicant, or waive the medical examination because obvious and overwhelming medical evidence of disability exists to his satisfaction.

D. State Medical Disability Board physician shall determine that a medical examination is needed to determine whether an applicant is eligible for a disability retirement, LASERS shall schedule an appointment with the appropriate board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial medical examination, including cost of laboratory tests, X-rays, and other direct examination procedures. If the applicant fails to appear for this medical examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:1580 (September 2001).

§2505. Final Determination

A.1. LASERS shall review the State Medical Disability Board physician's recommendation and, based on that recommendation, either approve or disapprove the application. An applicant shall be considered as certified totally disabled when the State Medical Disability Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physician's recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be permanently totally or partially disabled the applicant shall be entitled to a disability retirement benefit in accordance with either R.S. 11:212(B) or 214, as applicable.

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B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' executive director, who shall contact the examining physician for clarification, or another State Medical Disability Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the executive director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within 120 days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later. If an applicant elects to remain on unused sick or annual leave past the 120 days necessary to complete his application, a waiver shall be signed by the applicant and a re-exam shall be scheduled at LASERS' expense after one year from date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:1580 (September 2001).

§2507. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:1581 (September 2001).

§2509. Judicial Appeal

A. The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1581 (September 2001).

§2511. Certification of Continuing Eligibility

A. LASERS shall require a disability retiree to complete an Annual Attending Physician Statement (AAPS) once each year during the first five years following the disability retirement and once in every three years thereafter until the retiree has reached the equivalent age of regular retirement unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability. The AAPS needs to be returned within ten business days of receipt by the disability retiree. Depending on the results of the AAPS LASERS may require a disability retiree to undergo a medical examination.

B. If a medical examination is required LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. LASERS must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2507 herein.

D. If the disability retiree refuses to submit to the examination, or fails to submit the AAPS in the manner set out above, his benefit shall be discontinued until he agrees to the examination or submits the AAPS. The benefit will be discontinued 30 days after written notification to the disability retiree. If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 26:1490 (July 2000), LR 27:1581 (September 2001).

§2513. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amount of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued effective June 1 of that calendar year, without retroactive reimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1581 (September 2001).

§2515. Report to the Board of Trustees

A. The applicants' names and disposition of applications shall be provided to the board in addition to the monthly retirement supplement for the board's ratification.

B. The board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1582 (September 2001).

§2517. Appointment of Physicians to the State Medical Disability Board

A. Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the executive director. Such appointments shall be subject to ratification by the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1582 (September 2001).

§2519. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2507 herein. The benefit shall continue during the appeal period.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the board's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:1582 (September 2001).

§2521. Notices

A. Any notice that will terminate a benefit given under this Chapter shall be given as follows:

1. if a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. if no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:1582 (September 2001).

§2523. Conversion to Regular Retirement

A. In accordance with R.S. 11:217, when a disability retiree vests in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1960 (October 1998), LR 27:1582 (September 2001).

Chapter 27. DROP Program

Subchapter A. Participation

§2701. Eligibility

A. Eligibility for DROP shall be determined under the provisions of Part IV, Chapter One of Title 11 of the Louisiana Revised Statutes of 1950 (R.S. 11:441 et seq.).

B. Act 1110 of 1995, effective January 1, 1996, implemented a "new" DROP program; however, a member who is eligible for retirement on or before December 31, 1995 will continue to be eligible to enter the "old" DROP at any time. The provisions of the "old" DROP remain unchanged except for the elimination of the one year waiting period. Members eligible for the "old" DROP may also choose to enter the "new" DROP, unless they have been eligible for ordinary retirement more than three years and 60 days. If they elect not to enter either DROP program, they may elect the initial benefit option.

1. The provisions of "use it or lose it" for annual leave, by action of the board of directors, will cease being applied to "old" DROP participants beginning January 1, 1996. Thereafter, all DROP participants will be able to convert accrued leave to retirement credits, or actuarially reduced lump sum payment for accumulated leave.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Subchapter B. "Old" DROP

§2703. Participation in Three-Year Program

A. Any eligible member entering DROP for the first time on or after July 1, 1993, may make a one time election to participate in DROP for a period not to exceed three years. Once specified, the period of participation may not be extended.

B. Any member in their initial DROP participation period between July 1, 1993, and September 1, 1993, who entered DROP prior to July 1, 1993 may extend their originally selected participation period by up to one additional year upon giving written notice to the retirement system.

C. Any member in their initial DROP participation period who entered DROP prior to July 1, 1993, and who elect after September 1, 1993, to extend their originally selected DROP participation period by up to one year may do so upon 30 days prior written notice to the retirement system.

D. Any member who has completed DROP participation prior to July 1, 1993, and who has remained in state service without a break, may reenter the DROP program for up to one additional year upon written notice to the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2705. Effects of Participation

A. When a person is in an extended DROP participation period, leave earned during that time can be converted to retirement credit if participation in DROP extends beyond January 1, 1996.

B. When a person is in an extended DROP participation period, interest shall not be credited to the DROP account.

C. When a member extends their DROP participation period, the monthly amount credited to the DROP account during the original participation period shall be the amount credited to the DROP account during the extended DROP participation period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Subchapter C. Withdrawal

§2711. Methods of Withdrawal

A. When a participant in the Deferred Retirement Option Plan terminates state employment, the amount accumulated in the participant's DROP account may be withdrawn in any of the following methods.

1. Lump Sum Withdrawal

a. The participant may withdraw the entire balance in the DROP account; or

b. receive a one-time lump sum amount specified by participant;

c. if a participant dies and the designated beneficiary is not entitled to a monthly retirement benefit, the DROP account must be withdrawn within 90 days after notification of the death.

2. Monthly Withdrawal. The participant may receive a check each month until all the funds in the account are disbursed. The participant choosing monthly withdrawal shall select one of the following methods:

a. the participant may establish an amount to be withdrawn on a monthly basis; or

b. the retirement system can determine a level amount to be paid monthly over the expected lifetime of the individual. This method would be similar to an annuity payment; or

c. payments spread over a 10-year period.

3. Annual Withdrawal—Amount Established by Participant. The participant may establish an amount to be withdrawn once each year. The payments shall be made in December of each year. Changes in the amount shall be provided to LASERS, in writing, no later than November 15 of that year.

4. Delayed Withdrawal. The participant may choose not to withdraw the DROP account until some later date; however, the account must be disbursed within the time period shown in §2713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2465 (December 1999).

§2713. Time for Disbursement

A. The DROP account must be totally disbursed within the expected lifetime of the participant in accordance with federal laws. The expected lifetime is determined based on the age of the participant on the date of termination. All funds from the DROP account must be withdrawn in accordance with the Internal Revenue Services Guidelines.

B. Disbursements from the DROP accounts shall be made on the sixth day of each month; if the sixth is a weekend or holiday, the disbursement shall be made on the following workday.

C. When a retiree reaches age 70 1/2, mandatory monthly distributions shall begin in accordance with IRS regulations. The amount of the monthly distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

D. Requested withdrawals from DROP accounts which would leave a balance in that account of \$500 or less shall be processed as a request for disbursement of the entire balance. All such withdrawal requests shall result in the closing of the account. LASERS may, at its option, conduct audits to identify DROP accounts with a balance of \$500 or less and may disburse the entire amount to the person in whose name the account exists or to their beneficiary after giving notice of at least 30 days prior to disbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004).

§2715. Interest

A. Interest shall not be credited to a participant's subaccount during the period of participation and shall be based on the balance of the account at the end of each month. All amounts which remain credited to the individual's subaccount after termination of participation in the plan, which is not transferred to a self-directed subaccount under R.S. 11:451.1, shall be credited with

interest at the end of each plan year at a rate equal to the realized return on the system's portfolio for that plan year as certified by the system actuary in his actuarial report, less 1/2 of 1 percent.

B. Plan year shall mean calendar year. The actual posting of interest shall not be performed until the system actuary's report is approved by the Public Retirement Systems Actuarial Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 31:946 (April 2005).

§2717. Changes in Withdrawal

A. The type of withdrawal or the amount may be changed upon written notice. Requests for change received in the office of LASERS by the fifteenth of one month shall be effective the following month.

B. The participant must indicate whether federal income taxes should be withheld from the amount disbursed. The tax instructions must be provided by the participant before a disbursement can be made.

C. The forms for selecting the method of disbursement and the tax instructions shall be provided to the participant at the time of termination, or upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Subchapter D. "New" DROP

EDITOR'S NOTE: To the extent that the above provisions are not impacted by the following Sections, they shall apply to the new DROP. Any of the above provisions which conflict with the following provisions under the new DROP, the following provisions shall control.

§2719. Eligibility

A. Members who become eligible for retirement on or after January 1, 1996 will only be eligible for the new DROP. Members who were eligible for retirement on or prior to December 31, 1995 will have the option of joining either DROP, unless they have been eligible for regular retirement in excess of three years and 60 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2721. Participation in New DROP

A. A member will be eligible for DROP as soon as he is eligible for retirement.

B. DROP participation will be limited to three years.

C. The member must enter DROP within a "window" of time. If he does not enter DROP within the window, he loses his right to enter DROP.

D. The "window" begins 60 calendar days after his earliest date of eligibility for retirement and continues for three years and 60 days from the date of eligibility. In effect, the window sets an ending date for DROP participation. Eligibility to participate in DROP must end no later than three years and 60 days after the first retirement eligibility date. A member may enter DROP on the date he is eligible for regular retirement, without waiting 60 days to start DROP; however, he may only participate in DROP for three years.

E. If a member waits to enter DROP at some point after eligibility, the length of time he may participate in DROP is reduced. For example, if he enters DROP one year after first becoming eligible, he can stay in DROP for two years and 60 days.

F. The participant may not end DROP prior to the stated ending date unless he terminates employment. This is a change from the old DROP. Also, the stated participation period cannot be extended.

G. The participant may elect to continue working after DROP participation. The calculation of the retirement benefit will be the same as in the old DROP program, except for the conversion of unused leave.

H. The amount of unused sick and annual leave at the date of termination can be converted to retirement credit, including the leave that was earned during the DROP participation period. If the participant terminates at the end of DROP or works less than three years after DROP, the benefit based on the leave conversion will be calculated using the final average compensation at the beginning of DROP participation. If the participant works more than three years after DROP participation, the benefit based on the leave conversion will be calculated using the final average compensation for the period of employment after DROP.

I. The participant may choose to receive the actuarially reduced lump sum payment for unused leave in lieu of converting it to retirement credit.

J. Anyone who elects to participate in DROP cannot elect the initial benefit option (lump sum provision).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2723. Initial Benefit Option

A. This option will be available on January 1, 1996. Only members who have not participated in DROP can select this option. Disability retirees cannot select this option.

B. This option may be selected at the time of retirement and will pay the retiree a lump sum amount at the time of retirement, and the future monthly retirement benefit will be reduced on an actuarial basis.

C. The retiree must select the retirement option first. He cannot select Option 1. He can then elect to receive part of his future retirement benefits in an actuarially reduced lump

sum payment. The value of the lump sum cannot exceed 36 months of the maximum monthly retirement benefit. The retiree may elect to receive the maximum lump sum amount or any smaller amount.

D. The retiree may also elect to receive unused leave in a lump sum payment rather than converting it to retirement credit. This election must be made by the retiree before the initial benefit option can be calculated.

E. The monthly retirement benefit of both the retiree and beneficiary will be actuarially reduced to offset the cost of the initial benefit. If the retiree retires under the special provisions for wildlife agents or judges and he selects the initial benefit option, his monthly benefit will also be actuarially reduced.

F. The retiree can receive the "initial benefit" in a lump sum payment, or it can be deposited in an account like the DROP accounts. The interest earnings and withdrawals will be the same as for DROP accounts. The main difference is that it will be created at the time of retirement with a lump sum instead of accumulated over a DROP participation period. The account will begin accumulating interest at the time it is set up.

G. If a retiree selects the initial benefit and later changes, the retirement option to the maximum due to divorce or death of the beneficiary, the maximum benefit will be actuarially reduced at that time.

H. A retiree who elects this option and later returns to work will be governed by the same rehired retiree provisions as other retirees.

I. Future COLAs will be based on the amount of the monthly reduced benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 29. Spousal Consent

§2901. Spousal Consent to Retirement Option

A. If a member is married and wishes to elect to retire under either the maximum plan, Option I, or else choose from Options II, III or IV(B) while naming someone other than his spouse as his beneficiary, he must obtain the consent of his spouse no sooner than 90 days prior to the effective date of his retirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2903. Instances Where Spousal Consent Is Not Required

A. The following list sets out those instances where spousal consent is not necessary and will not be required:

1. the spouses are divorced, in which case LASERS needs a certified copy of a judgment of divorce;

2. the spouse is legally incompetent to give consent, in which case the spouse's legal guardian may give consent, even if the guardian is the member, in which case LASERS needs a certified copy of the court order appointing the guardian;

3. the spouse has abandoned the member, in which case the following shall be required:

a. a certificate by the local newspaper certifying that a legal notice has been run for at least three days requesting information from anyone knowing the whereabouts of the spouse; and

b. a notarized affidavit signed by the member stating that the spouse has abandoned him or her and outlining the steps that the member has taken to locate the spouse and obtain his or her signature; or

c. a certified copy of a court order indicating that the spouse is an absentee or has abandoned the member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000).

Chapter 31. Excess Benefit Arrangement

§3101. Participation

A. All retired members and beneficiaries of the system whose retirement or survivor or beneficiary benefits from the system for a plan year have been limited by IRC §415 are participants in this plan. Participation in the plan is determined for each plan year. Participation in the plan will cease for any plan year in which the retirement benefit of a member of the system or a survivor or beneficiary is not limited by IRC §415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1490 (July 2000).

§3103. Benefit

A. A participant in the plan shall receive a monthly benefit equal to the difference between the participant's monthly retirement benefit otherwise payable from the system prior to any reduction or limitation of IRC §415 and the actual monthly retirement benefit payable from the system as limited by IRC §415. The monthly benefit shall be subject to withholding for any applicable income or employment taxes. The form of the benefit paid to a participant from the plan shall be the same as otherwise selected by the participant and payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1490 (July 2000).

§3105. Contributions

A. The system shall determine the required contribution to pay plan benefits for each plan year. The required contribution for each plan year shall be the total amount of benefits payable to all participants and their survivors or beneficiaries and such amount as determined by the system to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

B. The required contributions as determined in the preceding Subsection shall be paid into the plan fund from an allocation of the employer contributions paid to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3107. Excess Plan Fund

A. Contributions to the plan shall be deposited on a monthly basis in a separate fund established and administered by the system. This fund is intended to be exempt from federal income tax under IRC §§115 and 415(m)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3109. Funding Assets

A. The benefit liabilities of the plan shall be funded on a month to month basis. The fund established hereunder shall not be accumulated to pay benefits payable in future months. Any assets of the fund not used for paying benefits for a current month shall be used, as determined by the system, for the payment of administrative expenses of the plan for future months or paid to the system as an additional employer contribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3111. Non-Assignability of Benefits

A. The benefits payable under the plan may not be assigned or alienated by a participant, except as otherwise permitted for benefits payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3113. Plan Administration

A. The system shall have the authority to administer the plan as provided at R.S. 11:454.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3115. Retirement Benefit

A. Any and all payments made pursuant to this plan shall be considered part of a retirement benefit as provided for any member, survivor or beneficiary of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

Chapter 35. Optional Retirement Plan

§3501. Plan Year

A. The Plan Year for the Optional Retirement Plan (ORP) shall be July 1 through June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3503. Participation

A. The following state employees shall be eligible to make an irrevocable election to participate in the optional retirement plan:

1. any unclassified state employee who is appointed by a statewide elected official and whose appointment is subject to confirmation by the Louisiana Senate;

2. any unclassified state employee who is a member of the immediate staff of any such employee described in Paragraph 1 of this Section;

3. the chief executive officer of the State Employee Group Benefits Program;

4. any member of the executive career service establishment by the State Civil Service Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000), amended LR 29:1121 (July 2003).

§3505. Election to Participate

A. An irrevocable election to participate in the ORP must be made in writing and filed with the system within 90 days after the eligible employee begins work. Elections shall be effective as of the date of appointment. If an eligible

employee fails to make an election to participate in the ORP within 90 days of appointment, he shall become a member of the defined benefit plan as of the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000), amended LR 29:1121 (July 2003).

§3507. Employee Contributions

A. Each participant in the ORP shall contribute monthly the same amount that a regular member would have contributed under R.S. 11:62(5)(e). This amount shall be forwarded to the ORP provider, less an administrative cost that shall be established by LASERS. The initial administrative cost shall be set at 1 percent of employee earnings but may be adjusted annually in writing to reflect the actual cost incurred by LASERS to perform this function, but shall not exceed 1 percent without an amendment to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3509. Employer Contributions

A. Each employer agency shall contribute to LASERS on behalf of each participant in the ORP the same amount that would have been contributed to the defined benefit plan. LASERS shall pay over to the ORP provider an amount equal to the employer's portion of the normal cost contributions as set forth in the actuarial valuation of the retirement system. LASERS shall maintain that portion of the employer's contribution, which applies to the unfunded accrued liability, which exceeds the employer's portion of the normal cost contribution. LASERS may also retain an additional portion of the employer contributions for any adverse actuarial impact as a result of employees participating in the ORP in accordance with R.S. 11:502.3. B.(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3511. ORP Provider

A. The system shall provide no more than three providers, selected by a competitive process, for participants to utilize in selecting investment options for the employee and employer contributions that are provided for by the preceding Sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3513. Investment Options

A. The investment options available to participants shall be those as established by the ORP provider and selected by the ORP participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3515. Benefit Obligations

A. All benefits payable to participants under the ORP shall be the sole obligation of the ORP provider to which contributions are made, and shall not be the obligation of LASERS. Payments to participants or their beneficiaries shall be made by the ORP provider and not LASERS in accordance with the contracts approved for use in the ORP. Participants in the ORP shall not be entitled to any benefits under the defined benefit plan, and once a choice is made by a participant to participate in the ORP, that individual will be ineligible to participate in the defined benefit plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3517. Distribution

A. Distribution from the ORP to participants shall only be made after termination of employment with the state of Louisiana in accordance with applicable Internal Revenue Code provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3519. Sunset

A. Currently the law provides that the authority to enroll eligible unclassified employees in the ORP shall terminate on December 7, 2003. Those eligible unclassified employees who enroll or transfer prior to that date shall continue participation in the ORP in accordance with the provisions of the ORP even after that date. There is no sunset provision for the executive career services employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000), amended LR 29:1121 (July 2003).

Chapter 37. Leave Conversion to Retirement Credit or Cash Payment

§3701. Conversion of Leave to Retirement Credit

A. All annual and sick leave certified by the employee's employing agency to be accrued in accordance with the leave accrual rates established by the Department of State

Civil Service and for which payment cannot be made in accordance with law at the time of retirement shall be credited to the employee and may be converted to retirement credit in accordance with R.S. 11:424.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:1122 (July 2003).

§3703. Lump Sum Payment of Leave

A. An employee, in lieu of conversion of leave to retirement credit, may request in writing that he be paid the actuarial value of such leave, as determined by the retirement system's actuary, in a lump sum cash payment. The employee shall be paid the actuarial value of the conversion of leave to cash. This lump sum cash payment shall be paid to the employee on the first of the month after all pertinent documentation is received from the employee's employing agency needed to finalize the employee's retirement benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:1122 (July 2003).

§3705. Tax Liability

A. The employee requesting the lump sum cash conversion of leave shall be solely responsible for any tax consequences of this decision, and the employee must acquire any tax advice from a private source (CPA or tax attorney) as LASERS shall not be responsible for any tax liability that may impact the employee as a result of the decision to take a lump sum cash distribution of leave in lieu of converting leave to retirement credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:1122 (July 2003).

Chapter 39. Public Safety Services Secondary Component

§3901. Additional Retirement Eligibility

A. Regardless of the provisions of R.S. 11:602 members of the Public Safety Services Secondary Component defined at R.S. 11:601.B shall be eligible to retire when a member has 10 years or more of service credit at age 60 or thereafter in accordance with Attorney General Opinion Number 03-0143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:2859 (December 2003).

Chapter 41. Self-Directed Plan

§4101. SDP Provider

A. System shall procure a single provider, selected by a competitive process, for participants in the Self-Directed Plan ("SDP") to utilize in providing investment options for the deposits made during the accumulation period in the Deferred Retirement Option Plan ("DROP") or funds acquired through the Initial Benefit Option ("IBO"). The investment options shall not be available to the participants until the DROP funds are transferred to the SDP provider at the end of the accumulation period, or until after the IBO funds are so transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1306 (June 2004).

§4103. Persons Vesting for DROP Prior to January 1, 2004

A. Persons who became eligible for regular retirement prior to January 1, 2004 are eligible for participation in the SDP. Those persons may make an irrevocable election to transfer their DROP funds into the SDP. The DROP or IBO participants electing to transfer their funds into the SDP must transfer their entire DROP or IBO balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1306 (June 2004).

§4105. Eligibility for Transfer of Funds into SDP

A. The only funds which may be transferred into the SDP are LASERS DROP or IBO funds. Transfers or rollovers from other sources shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4107. Rollovers Out of SDP to Other Providers

A. At all times after becoming eligible to withdraw funds from the SDP, DROP participants may elect to rollover funds to eligible providers. Such rollovers shall be subject to applicable federal laws and the terms of the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4109. Right to Recover Overpayments

A. In the event of overpayment of funds are made by LASERS, then LASERS retains the ability at all times to recall funds from member at provider or to reduce future benefits pursuant to R.S. 11:192 to recover any such overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4111. Time to Transfer Funds

A. LASERS shall forward the entire deposit balance of a participant to the third party administrator within 10 working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors, missing documents or incomplete reports submitted by agencies reporting earnings for the participant.

B. For participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80 percent of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4113. Spousal Consent

A. LASERS may halt the processing of a participant's request to enter the SDP until any spousal consent form required by law or proof of divorce has been presented to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4115. Completion of Notification Form

A. All DROP participants shall complete and submit a form (#9-2 or #9-2a) to inform LASERS that they are ending the accumulation period. This form shall be submitted at least 30 days prior to that date. Failure to submit this form could result in delaying access to DROP funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4117. Distributions

A. Distributions shall be in accordance with the provisions of Title 58, Part I, Chapter 27 of the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4119. No In-Service Distribution

A. Distributions prior to the date of termination from employment with the state of Louisiana are strictly prohibited in accordance with applicable Internal Revenue

Code Provisions. The selected provider shall not make a distribution without a verification of termination from LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4121. Civil Service Reinstatement

A. DROP participants who have been removed from state employment, then reinstated pursuant to a ruling by the Civil Service board, shall immediately notify LASERS in writing of their reinstatement, along with a projected date of retirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4123. Beneficiary

A. Each participant shall initially designate a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing a written notice on a form approved by LASERS. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4125. Investment Options

A. LASERS shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any event, it shall be the sole responsibility of LASERS to ensure that all investment options offered under the plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. In the absence of a written directive from the participant, the provider shall automatically invest the participant's DROP funds in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing by the participant. LASERS shall not be responsible for the propriety of any directed investment.

C. LASERS may, from time to time, change the investment options under the plan. If LASERS eliminates a certain investment option, all participants who had chosen

that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of LASERS. The participants shall have no right to require LASERS to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by LASERS or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4127. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment options established as part of the overall SDP, unless otherwise specified by LASERS. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the SDP.

B. Each participant shall designate on the proper form or via website or telephone direction the investment that shall be used to determine the income to be accrued on amounts deposited. If the investment chosen by the participant experiences a gain, the participant's benefits under the SDP likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under such investment, the participant's benefits under the SDP likewise shall reflect such loss or charge for that period.

C. Neither the state of Louisiana, LASERS, the administrator, nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4129. Distributions from the Plan

A. The payment of benefits in accordance with the terms of the plan may be made by the trustee, or by any custodian or other person so authorized by LASERS to make such distribution. Neither LASERS, the trustee nor any other person shall be liable with respect to any distribution from the plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

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HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4131. Domestic Relations Orders

A. In all instances wherein a person beginning participation in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP.

B. The selection of investment options shall be in accordance with §4125 of this Chapter.

C. Withdrawals from the SDP by either the member spouse (under whom all service credit accumulated) or the former spouse are prohibited until such time as the member spouse terminates state employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4133. Disclaimer

A. LASERS makes no endorsement, guarantee or any other representation and shall not be liable to the plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the plan, or any other purpose) of any investment option in which amounts deferred under the plan are actually invested; or

2. the tax consequences of the plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana

Chapter 1. General Provisions

§101. Mandatory Submission of Contribution Reports

A. All employers with 125 or more employees being reported must submit information to Teachers' Retirement System of Louisiana (TRSL) by computer tape/diskette in the following manner.

1. Each month the employer shall certify to the board of trustees, by means of computer tape/diskette, the amounts of salary and deductions from the employees' salaries to be paid to the annuity savings fund and credited to the individual accounts of members from whose compensation the deductions were made.

2. All computer tape/diskette formats and specifications must be in accordance with criteria established by TRSL.

3. Both computer tapes/diskettes and printed copies thereof must be submitted by the fifteenth of the month following the end of the month covered by the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998).

Chapter 2. Earnable Compensation Accounts

§201. Earnable Compensation Accounts

A. Earnable compensation shall not include compensation paid to an active member or to an inactive member of Teachers' Retirement System of Louisiana (TRSL) if the compensation is paid by a secondary employer and is reported to the Internal Revenue Service (IRS) on a Form 1099, but only if both the following occur.

1. The individual contract is for \$1,000 or less, and a Form 1099 is issued.

2. The cumulative amount of the Form 1099 payments issued by a single secondary employer to that member does not exceed \$15,000 in a fiscal year.

B. If an individual contract is for more than \$1,000, then that entire payment is earnable compensation subject to TRSL employer and employee contributions.

C. If the cumulative amount of the Form 1099 payments issued by a single secondary employer to that member exceeds \$15,000 in a fiscal year, then all Form 1099 payments in excess of \$15,000 in that TRSL fiscal year are earnable compensation subject to TRSL employer and employee contributions.

Note: A secondary employer is one who does not report W-2 earnings on this member.

D. Earnable compensation shall include any and all compensation paid to a retiree of this system by a TRSL-covered employer regardless of IRS reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(10).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 30:273 (February 2004).

Chapter 3. Re-Employment of Retirees

§301. Retirees Returning to Work at Charter Schools

A. Any retiree receiving a retirement benefit from Teachers' Retirement System of Louisiana (TRSL), who subsequently returns to work at a school chartered under the provisions of R.S. 17:3971-3982, shall be governed by the return-to-work provisions contained in R.S. 11:707, 737, 738, 739, 780.1, 783.A, or 791, whichever is applicable.

B. Local school systems granting charters will be responsible for reporting to TRSL, in accordance with R.S. 11:707, the employment of any TRSL retiree by the charter school. Failure to report this information will result in penalties assessed in accordance with R.S. 11:737.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3982 and R.S. 11:707, 737, 738, 739, 780.1, 783.A, and 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System of Louisiana, LR 22:290 (April 1996), repromulgated LR 24:499 (March 1998).

Chapter 5. Deferred Retirement Option Plan (DROP)

§501. Service Requirements

A. Members of the Teachers' Retirement System of Louisiana (TRSL), in lieu of terminating employment and accepting a retirement allowance, may elect to participate in the Deferred Retirement Option Plan (DROP) in accordance with R.S. 11:786-791 when the following eligibility requirements for plan participation are met.

1. Regular Plan Members

- a. 30 years of service credit at any age;
- b. 25 years of service credit and at least age 55;
- c. 20 years of service credit and at least age 65 (excluding military service);

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d. 10 years of service credit and at least age 60 (excluding military service);

e. those members with 10 years of service credit and who are at least age 60 will have retirement benefits calculated using a 2 percent benefit formula;

2. School Food Service Plan a Members

a. 30 years of service credit at any age;

b. 25 years of service credit and at least age 55; and

c. 10 years of service credit and at least age 60 (excluding military service);

3. School Food Service Plan B Members

a. 30 years of service credit and at least age 55; and

b. 10 years of service credit and at least age 60 (excluding military service).

B. DROP participation may begin or end any day of the month. The effective date for participation in DROP will be the date a properly executed DROP application, including the designation of a DROP account beneficiary(ies), is filed in the office of TRSL or the stated effective date on the properly executed DROP application, whichever is later. In the event an employer fails to submit the application in a timely fashion, the provisions of R.S. 11:761 shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), repromulgated LR 24:500 (March 1998).

§503. Management of DROP Accounts

A. Deposits to DROP accounts will be effective on the first day of each month of participation in the plan.

B. DROP account statements will be furnished on a quarterly basis as follows:

1. statements issued during DROP participation will reflect all account deposits for a quarterly period;

2. statements issued after completion of DROP participation and termination of employment will reflect all account withdrawals for a quarterly period; and

3. interest earnings will begin accruing the day after termination of DROP participation and will be compounded daily;

a. members eligible to enter DROP prior to January 1, 2004, will have interest deposited to their DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement System's Actuarial Committee. This interest will be equal to the approved actuarially realized rate of return less an administrative fee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained.

No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on any interest only balance. *Liquidated* means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted;

b. members eligible to enter DROP on or after January 1, 2004, will have their DROP funds transferred to a Liquid Asset Money Market Account after the termination of DROP participation. Interest will be deposited monthly based on the interest earned on the Liquid Asset Money Market Account less an administrative fee. Final payouts of DROP accounts will have interest posted through the date of the payment. Quarterly statements issued will reflect the interest earned and posted;

4. withdrawal payments from DROP accounts will be issued on the fifteenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999), LR 30:100 (January 2004).

§505. Duration of DROP Participation

A. Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to §501.A). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

1. In lieu of a participation period not to exceed the remainder of the three consecutive year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994 may, at any time, select a participation period which may not exceed two consecutive years.

2. Notwithstanding any other provision of law to the contrary, any member who is participating in the three-year Deferred Retirement Option Plan, as set forth in R.S. 11:786.B, may continue to participate in the plan for an additional period of time which equals the difference between the actual participation of that member in that plan and the three-year maximum term of participation, provided the member satisfies all of the following.

a. On January 1, 1994, the member was not eligible for the full three-year period because of years of service credit or age requirements, or both.

b. The member chose to participate in the three-year plan for the maximum period available.

c. The member is participating in the three-year plan on June 30, 1995.

d. The member furnishes written notice to the system prior to December 31, 1995 or the end of the participation period that the member initially selected, whichever date occurs first.

3. Any member of the Teachers' Retirement System of Louisiana who meets the criteria in §505, including the required written notice, will be allowed to extend their period of DROP participation through December 31, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 19:1601 (December 1993), LR 21:1267 (November 1995), repromulgated LR 24:500 (March 1998).

§507. Retirement Benefits

A. Retirement benefits shall begin on the first day of the month immediately following termination of DROP in all of the following cases:

1. voluntary termination—the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment;

2. involuntary termination—the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL employer on the following day; and

3. completion of selected DROP participation period and termination of employment, except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1602 (December 1993), repromulgated LR 24:501 (March 1998).

§509. Withdrawal of Funds from a DROP Account

A. Withdrawals from a DROP account are not permitted prior to the termination of DROP participation or during employment which continues immediately following the DROP participation period and shall be limited to the following methods:

1. withdrawal of the total DROP account balance at the termination of DROP participation and employment;

2. monthly withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from month to month (refer to §511.A);

3. monthly withdrawals based upon an amount to be withdrawn each month, as specified by the participant. This periodic payment shall not vary from month to month, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy (refer to §511.A);

4. annual withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from year to year. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A);

5. annual withdrawals based upon an amount to be withdrawn each year, as specified by the participant. This periodic payment shall not vary from year to year, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A); and

6.a. one-time partial account balance withdrawal at the beginning of, or during the term of, monthly or annual withdrawals selected in accordance with §509.A.2, 3, 4, or 5. If the one-time partial account balance withdrawal is made before any other withdrawals, the balance of the account will be paid as determined by the withdrawal method selected in accordance with §509.A.2, 3, 4, or 5. If withdrawals have already begun, the duration of the remaining monthly and or annual withdrawals will be redetermined and the appropriate federal tax laws will be applied. If the one-time partial account balance withdrawal is to be made after the monthly or annual withdrawals have begun, the retiree must meet one of the following conditions:

i. one must have been at least age 55 on the date of his retirement; or

ii. one must be at least 59 1/2 at the time he chooses the one-time single lump sum withdrawal;

b. changes to the monthly or annual withdrawals may only be made in accordance §511.A;

c. if a member is 70 1/2 or older when he chooses a partial single sum after withdrawals have begun, even though he retired at a younger age, he will have the required minimum distribution calculated using the "Single Life Table" (SLT), or he may choose the "Uniform Lifetime Table" (ULT), or the "Joint and Last Survivor Table" (JLST), whichever applies. The result of using one of these tables may allow a member to lower his monthly or annual withdrawal;

7. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

RETIREMENT

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:501 (March 1998), amended LR 28:1031 (May 2002), LR 28:2569 (December 2002).

§511. Change of DROP Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method and/or amount if the original method selected was either §509.A.2, 3, 4, or 5. Any change must be made in accordance with the life expectancy of the participant.

1. For participants under age 70 1/2, any change in the withdrawal method must be made in accordance with the life expectancy of the participant at the time of his retirement, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

2. For participants over age 70 1/2 at the time of the change, the change in the withdrawal method may allow the participant to reduce the disbursement only if the participant was not age 70 1/2 at the time he began withdrawals. Otherwise the rule under §511.A.1 will apply.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the "Single Life Table" (SLT) for participants first eligible to begin withdrawing on or after January 1, 2003. Exception: if a retiree is 70 1/2 or older, he must meet a required minimum distribution (RMD) and may request the use of the "Single Life Table" (SLT), "Uniform Lifetime Table" (ULT) or the "Joint and Last Survivor Table" (JLST), whichever applies. Once the election has been made he cannot elect to make a change at a later date.

C. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by the TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be payable to the participant until official notification of termination of employment, on the prescribed form, is received in the office of TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:502 (March 1998), amended LR 24:961 (May 1998), LR 28:1031 (May 2002), LR 28:2569 (December 2002).

§513. Termination of DROP Participation

A. When termination of the DROP participation period occurs because of the death of the participant, or if the death of the participant occurs in the absence of an executed Affidavit of Plan Election, the provisions of R.S. 11:783 shall apply.

B. In the event of the death of the DROP participant/retiree, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A, and may make changes in accordance with §511. If the disbursements from the account began prior to the participant's death, the spousal beneficiary may make changes in accordance with §511.

C. In the event of the death of the participant during DROP participation, or after the end of the period of participation, but before total distribution of the DROP account balance, a beneficiary(ies) other than the participant's surviving spouse shall immediately receive a lump sum equal to the participant's balance in the DROP account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:622 (June 1992), amended LR 18:1419 (December 1992), LR 19:1602 (December 1993), repromulgated LR 24:502 (March 1998), amended LR 28:1032 (May 2002).

§515. Death of Beneficiary

A. In the event of the death of a surviving spousal or nonspousal beneficiary, any remaining DROP account balance will be paid to the estate of the beneficiary.

B. DROP accounts will be subject to all Louisiana laws governing community property, inheritance, and estate matters and will be administered in accordance with applicable state laws and orders of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana LR 18:622 (June 1992), repromulgated LR 24:502 (March 1998).

§517. Affidavit of Plan Election

A. If a member fails to return a completely executed and notarized Affidavit of Plan Election to choose a retirement benefit option by 90 calendar days after his/her receipt of the unsigned affidavit or by 90 calendar days after the beginning of his/her DROP participation, whichever is later, he/she will be deemed not to have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

B. For purposes of §517.A, the signed affidavit must be postmarked no later than 90 calendar days after receipt by member of the unsigned affidavit or by 90 days after the beginning of his/her DROP participation, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:622 (June 1992), amended LR 20:1020 (September 1994), repromulgated LR 24:502 (March 1998).

§519. Application for DROP

A. A member shall not begin his DROP participation until TRSL has received a fully completed, signed, and witnessed application for DROP, Form 11F. TRSL must receive both sides of the Form 11F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 20:1020 (September 1994), repromulgated LR 24:502 (March 1998), amended LR 24:962 (May 1998), LR 28:1032 (May 2002).

§521. Teaching Experience

A. Retirees who return to work under the provisions of R.S. 11:739 shall be governed by the following definition of *teaching experience*. Any work experience which would have qualified the member for TRSL membership under the provisions of R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered teaching experience. Teaching experience will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from his/her previous employer in a timely manner. Teaching experience will not include unused leave, furlough, strike time, or unpurchased leave without pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 21:1267 (November 1995), amended LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

Chapter 7. Renunciation of Benefits**§701. General**

A. Any person eligible to receive, or receiving, a benefit from the Teachers' Retirement System of Louisiana (TRSL), may renounce such benefits on the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, TRSL shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may only be renounced in its entirety. If a base benefit is renounced, there shall be no eligibility for later adjustment of benefits of any kind. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. A benefit may be renounced before or after payment begins. If the renunciation is after the start of payments, any payments received prior to the effective date of the renunciation are not affected.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:783.D.

6. If the person making the renunciation is legally separated or divorced but is not subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. A renunciation must be made on a form provided by TRSL and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by TRSL and may not be retroactive.

9. A person revoking, or participating in revocation of a benefit, must hold TRSL harmless from such action.

10. A revocation may not be used to terminate active participation in TRSL.

11. Amounts credited to a DROP account cannot be renounced.

12. TRSL makes no representation with respect to the effect of a revocation on a person's eligibility for receipt of any state or federal benefits or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs or eligibility for or receipt of such benefits is an issue for which the person making the revocation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 19:1602 (December 1993), repromulgated LR 24:503 (March 1998).

Chapter 9. Computation of Final Average Compensation**§901. Time Frames for Computation**

A. Members of the Teachers' Retirement System of Louisiana (TRSL) retiring on or after July 1, 1995 will have their average compensation (highest 36 consecutive or joined months of earnable salary) computed as follows.

1. Full 12-month periods beginning before July 1, 1995 will be calculated using the law in effect on the day the 12-month period begins.

2. Full 12-month periods beginning on or after July 1, 1995 will be calculated using the law in effect on July 1, 1995.

B. A full 12-month period of the highest 36 consecutive or joined months of earnable salary is defined to be *months 1 through 12*, or *months 13 through 24*, or *months 25 through 36*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(5).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 21:1266 (November 1995), repromulgated LR 24:503 (March 1998).

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. General

A. Any TRSL retiree, beneficiary, or survivor is eligible to participate in a program established for the voluntary deduction from his/her retirement benefit for life, health, supplemental, dental, cancer, or other insurance premiums and for deductions for savings, loans, or other payments to be sent to banks and credit unions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

§1103. Application Process

A. Application for participation in the program must be made by the insurance carrier, bank, or credit union which is the provider of the coverage, product, service, or depositor of monies and shall be signed by two officers of the company, bank, or credit union. The completed application must be submitted to TRSL for approval prior to any deductions being withheld from the retiree's monthly benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

§1105. Requirements

A. Domestic companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B" or better;

3. have been doing business under the same name for not less than three years;

4. provide a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

B. Foreign companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B+" or better;

3. have been doing business under the same name for not less than three years;

4. offer a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

C. Companies/credit unions must be regulated by the Department of Insurance or the Office of Financial Institutions.

D. Companies/credit unions are responsible for submitting a computer diskette of monthly deductions to TRSL by the twelfth day of the month preceding the month for which the deduction will be made, using the format and specifications established by TRSL. Diskettes received after the twelfth day will not be processed. Magnetic tapes will be accepted only under certain conditions. All deductions for a single vendor shall be submitted on one monthly diskette, and the retiree will be allowed only one monthly deduction per vendor. This deduction may cover more than one product for a single vendor. Only deductions received on computer tape/diskette will be processed.

E. Companies/credit unions shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees. Copies shall be made available to TRSL upon request.

F. Companies/credit unions are responsible for contract/loan terms between companies/credit unions and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

G. Retirees may discontinue any voluntary payroll deduction from their monthly benefit check by providing written notification to the vendor.

H. A retiree cannot authorize total deductions which would cause the net amount of the benefit to fall below \$5.

I. Companies/credit unions must have a minimum of 50 TRSL retirees to participate in the program; however, companies will be allowed six months after initial approval to meet the minimum participation requirements.

J. TRSL will not deduct monthly premium amounts for any retiree who owes monies to TRSL or has his/her benefit suspended.

K. Companies/credit unions shall notify TRSL immediately upon learning of the death of a retiree. In the event that TRSL has remitted funds to the company/credit union after the death of a retiree and these funds were not due the retiree, company/credit union shall refund said monies to TRSL after notification.

L. Upon learning of the death of a retiree, even if not notified by the company/credit union, TRSL shall be refunded any monies transmitted, but not due, after notification. The company/credit union will accept the certification of TRSL as to date of death of retiree as sufficient evidence of date of death in regard to any funds owed to TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

§1107. Disclaimer

A. The company/credit union is prohibited from stating that any product offered has been endorsed or approved by TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

§1109. Transmittal of Withheld Amounts

A. Amounts will normally be transmitted to company/credit union by wire transfer by the tenth of each month. If the tenth is a weekend, the first working day after the tenth will be the date of transmittal. In the event of computer/technical production problems beyond the control of TRSL, it is possible that transmittal of funds would not be made on the tenth day of the month.

B. TRSL will provide the company/credit union a computer printout of the names of individuals, Social Security Numbers, and the amounts withheld.

C. TRSL may adjust printout totals by amounts owed TRSL due to death of an individual. These individuals will be identified by name and Social Security Number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

§1111. Termination of Payroll Deduction

A. The board of trustees may terminate the voluntary payroll deduction program by providing the company/credit union with at least 30 days written notice.

B. Immediately upon notice from TRSL individual company/credit unions may be terminated for unethical conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

Chapter 13. Cost-of-Living

§1301. Cost-of-Living Adjustment—July 2, 1995

A. Effective July 2, 1995, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient, as determined in accordance with the formula, $X(A + B + C)$, where:

1. A = the number of years of credited service accrued at the time of retirement or death of the member or retiree;

2. B = the number of years since retirement or since death of the member or retiree to July 1, 1994;

3. C = the number of years of service credit greater than 30 years; and

4. X = \$1.

C. No increase in benefit shall be paid to any retiree, beneficiary, or survivor unless such person was receiving benefits on, or prior to, July 1, 1994. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on, or prior to, July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787.D and 11:883.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 21:473 (May 1995), repromulgated LR 24:504 (March 1998).

§1303. Cost-of-Living Adjustment—July 1, 1998

A. Effective July 1, 1998, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits, on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient as determined in accordance with the formula: $\$10 + W + 2X + Y + 2Z$, where:

1. W = \$1 per year since retirement or death of the member or retiree to June 30, 1997;

2. X = \$1 per year since retirement or death of the member or retiree in excess of 10 years as of June 30, 1997;

3. $Y = \$1$ per year of credited service at the time of retirement or death of the member or retiree;

4. $Z = \$1$ per year of credited service greater than 25.0 years at the time of retirement or death of the member or retiree.

C. No increase in benefit shall be paid to any retiree, beneficiary or survivor unless such person was receiving benefits on or prior to June 30, 1997. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on or prior to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787.D and 11:883.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 24:1138 (June 1998).

Chapter 15. Optional Retirement Plan (ORP)

§1501. Marketing Guidelines

A. The objective of these guidelines is to provide eligible employees a clear understanding of the ORP and TRSL retirement plans through a fair and balanced presentation.

B. In order to assure that eligible employees have all the information needed to make informed and unbiased decisions, they should be encouraged by their employers to talk to all three ORP carriers.

C. Each carrier should be provided the names of all newly eligible employees and their addresses at least once every semester. After these new employees have been counseled by the employer's personnel office staff on TRSL and other benefits, each carrier will then be permitted to initially contact the eligible employee at work, by phone, or by mail, to request a mutually agreed upon time for a personal presentation, if the eligible employee desires such a meeting. No high-pressure sales methods or multiple contacts may be used by the ORP sales representatives. All presentation materials presented to eligible employees by the ORP carriers will have to be reviewed and approved by TRSL prior to their distribution. This is to include all sales material and video presentations.

D. During any individual presentations, the carriers may provide the eligible employee with written comparative material from the carrier as well as a computer comparison of the ORP and TRSL retirement plans. This computer comparison will project the value of the ORP at retirement

assuming realistic returns based on input variables agreed upon by the employee and the representative from the ORP carrier. The projection of ORP value can then be compared to the retirement value of TRSL for the same employment period.

E. All NASD required disclosures for the various investment vehicles shall be made by the ORP providers.

F. The registered ORP representatives will work within the following marketing guidelines set forth by TRSL.

1. TRSL has authority over ORP marketing effort of the approved companies.

2. Each eligible employer will provide the ORP carriers with the name(s) of an employer contact person(s). In turn, the carriers will provide the employer contacts with the name of their respective ORP representative(s). At least once a semester, each participating institution shall provide the ORP carriers with the names, addresses, and phone numbers of newly eligible employees.

3. Once new employees have received TRSL/benefit orientation by their employer, authorized ORP carrier representatives may contact newly eligible employees through brochure distribution in personnel offices, at employer-sponsored new employee orientation meetings, or through one introductory mailing or telephone call to request an appointment to illustrate and explain both TRSL and ORP benefits. There is otherwise to be no solicitation (including phone calls) on or off campus.

4. No gifts, other monetary awards or gratuities may be paid to any ORP member or any third party because of the ORP enrollment of any person.

5. No products other than TRSL-authorized ORP products may be sold by company representatives to eligible ORP participants, unless the ORP provider has a separate contract with that employer to sell other products, such as 403(b) annuities, life insurance, etc.

6. TRSL must approve all ORP sales literature and explanatory materials before any such materials may be distributed to employees in any way.

7. Each employer will make available to eligible employees the approved ORP information and the names and telephone numbers of the contact representative(s) for each ORP carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 27:738 (May 2001).

Title 58
RETIREMENT

Part IV. Board of Elementary and Secondary Education

Chapter 1. General Provisions

**§101. Re-Employment with Respect to State and
Statewide Retirement Systems**

A. Any person who retires from employment with a department of state government, upon re-employment by the same department of state government, shall be governed by the laws of the retirement system from which he retired.

B. Any person who retires under any early retirement incentive plan shall not be re-employed for two years after the effective date of retirement.

AUTHORITY NOTE: Promulgated in accordance with R. S. 42:697.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 14:81 (February 1988).

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 1. Qualified Domestic Relations Orders

§101. Determining Qualified Status of Domestic Relations Orders

A. Intent and Construction. These procedural rules are adopted in order to satisfy the requirements of R.S. 11:291, and shall be construed consistently with this purpose.

B. The purpose of these rules is to establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

C. It is further intended that the provisions of R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO:

1. that purports to require the fund to provide any type or form of benefit, or any option, not otherwise provided under the fund;
2. that requires the fund to provide increased benefits (determined on the basis of actuarial value);
3. that requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO;
4. that requires the payment of benefits to an alternate payee prior to the date the participant terminates employment and his retirement benefits commence; or
5. that allow the alternate payee to elect a form of benefit payable in any manner other than over the life of the participant when the order is presented to the fund after the participant has already begun receiving pension benefits.

D. The trustees will not honor the provision of any QDRO that the participant's former spouse shall be treated as the participant's surviving spouse for purposes of the right to receive all or part of any survivor benefits payable, or that any other spouse of the participant shall not be treated as a spouse of the participant for these purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1304 (October 1997), LR 30:1685 (August 2004).

§103. Definitions

A. As used in these procedural rules, unless the context indicates otherwise, the following terms shall have the following meanings.

Alternate Payee—the participant's spouse (or former spouse, child, or other dependent) who is entitled to receive some or all of the fund's benefit payments with respect to the participant under the terms of the QDRO. The same QDRO may identify more than one alternate payee, and several alternate payees may be identified in multiple QDROs. However, the trustees shall not recognize the entitlement of any alternate payee, even if specified in a domestic relations order, if the benefits assigned therein have already been assigned by reason of an earlier QDRO validly served upon the fund.

Domestic Relations Order—any judgment, decree, or order (including approval of a property settlement or community property partition) that:

- a. relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant; and
- b. is made pursuant to a state domestic relations law (including a community property law);
- i. a state court shall actually issue an order, or formally approve a proposed property settlement, in order for it to be recognized by the trustees as a domestic relations order. A property settlement or community property partition signed by a participant and the participant's former spouse, or a draft order to which both parties consent, shall not be considered a domestic relations order until the state authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

Participant—any employee or former employee of an employer in relation to the fund, who is or may become eligible to receive a benefit of any type from the fund, and who is the individual whose benefits under the fund are being divided by the QDRO.

Qualified Domestic Relations Order—a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order:

- a. clearly specifies:
 - i. the name and last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order or, in the event the alternate payee is a minor or legally incompetent, the name and address of the alternate payee's legal representative;
 - ii. the amount or percentage of the participant's benefits to be paid by the fund to each alternate payee, or the manner in which such amount or percentage is to be determined;

- iii. the number of payments or the period to which such order applies; and
- iv. the name and identity of the fund;
- b. does not require:
 - i. the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund;
 - ii. the fund to provide increased benefits (determined on the basis of actuarial value);
 - iii. the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;
 - iv. the payment of benefits to an alternate payee prior to the date the participant terminates employment and begins receiving pension benefits from the fund; or
 - v. the payment of benefits to an alternate payee in any manner other than over the life of the participant when the order is presented to the fund after the participant has already begun receiving pension benefits.

Trustees—the Board of Trustees for the Firefighters' Pension and Relief Fund for the City of New Orleans, or such person or entity to whom the board has delegated responsibility to make determinations on its behalf under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1304 (October 1997), LR 30:1685 (August 2004).

§105. QDRO Language

A. Many factors should be taken into account by the drafters of a QDRO in determining which benefits to assign to an alternate payee and how these benefits are to be assigned. Because of the complexity and variety of the factors that should be considered and the need to tailor the assignment of benefits under a QDRO to the individual circumstances of the parties, it would be inappropriate for the trustees to propose specific sample language for inclusion in a QDRO. Instead, individual participants and alternate beneficiaries, and their respective attorneys, are directed to collaborate jointly upon the drafting of orders that meet their individual needs. Nevertheless, if so requested, the trustees shall review any proposed order submitted to the fund prior to its submission to the appropriate court for execution and entry, with a view to indicating the trustees' probable determination concerning its status as a QDRO. The trustees are required by law to honor and enforce the terms of any QDRO which meets the conditions specified in these rules and as may subsequently be determined by the applicable statutes and the courts' interpretations thereof.

B. For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, and tax treatment of benefits payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin* 199702 dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporation's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trusted by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC or electronically via the PBGC Internet site at "<http://www.pbgc.gov>." However, some or all of the principals there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq. Thus the rules and regulations shall supersede the provisions of the IRS Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997), LR 30:1685 (August 2004).

§107. Notice

A. Upon the fund's receipt of a domestic relations order with respect to a participant, the trustees shall promptly give notice of these procedural rules to the participant and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997).

§109. Determination

A. The trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received and shall have the right to require such evidence as they may reasonably need to make the determination.

B. The trustees shall notify the participant and the alternate payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable time if it is determined not to be a qualified order.

C. The participant may appeal such a determination to the trustees upon written application to the trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments, in writing, to

the trustees. No appeal shall be considered unless it is received by the trustees within 90 days after receipt by the participant of written notice of the determination.

D. The trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall be rendered as soon as possible but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension.

E. The trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997).

§111. Payments Pending Determination

A. During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the trustees, by a court of competent jurisdiction, or otherwise), the trustees shall segregate in a separate account in the fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

1. To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts, plus any interest on them, to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedural rules, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

2. To the extent that the domestic relations order is determined not to be qualified, the fund shall pay the segregated amounts, plus any interest on them, to the person or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

3. To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the trustees shall pay the segregated amounts, plus any interest on them, to the person or persons who would have been entitled to these amounts without regard to the terms of the order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997).

§113. Representative of Alternate Payee

A. An alternate payee, by written notice to the trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1306 (October 1997).

Chapter 3. Procedural Rules and Regulations of the Board of Trustees

§301. Definitions

Applicant or Claimant—an individual participant applying for a pension, or a surviving spouse or child applying for a survivor pension or death benefit.

Board—the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

Committee—the Pension and Relief Committee.

Participant—an employee of the New Orleans Fire Department who is eligible to and does participate in the Pension and Relief Fund in accordance with R.S. 33:3361 and 3365.

Secretary-Treasurer—secretary-treasurer of the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:685 (August 1990).

§303. Organization, Rules, and Procedures of the Board

A. Organization of the Board

1. Election of President. The board shall, at the regular meeting held after the election of members to the board as set forth in R.S. 33:3362, elect from its members a president for the term of two years, or until a successor is duly elected. If, because of death, resignation or otherwise, the office of president is vacated before the expiration of the term of office, the board shall elect a successor at its next regular meeting.

2. Election of Secretary-Treasurer. The board shall, at the regular meeting held as set forth in §303.A.1, elect solely from the elected members of the board [as set forth in R.S. 33:3363(c)] a secretary-treasurer for a term of two years or until a successor is duly elected. If, because of death, resignation or otherwise, the office of secretary-treasurer is vacated before the expiration of the term of office, the board shall elect a successor at its next regular meeting.

RETIREMENT

3. There is established, in accordance with R.S. 33:3363, a Pension and Relief Committee consisting of the secretary-treasurer and one or more other members elected from the board.

4. Rules of Order. The board and the committee shall not be bound by any rules of order, evidence, or procedure at its meetings, hearings or investigations, except such as it may itself establish.

B. Rules

1. Adoption of Amendment. These rules may be adopted or amended by the board only after public hearing, as set forth in R.S. 49:953.

2. Effective Date of Amendments. An amendment to the rule shall become effective on the first day of the month following the date of adoption by the board, unless otherwise specifically provided.

C. Meetings

1. At least one regular meeting of the board shall be held each month.

2. Special meetings may be held at times and places specified by call of the president, or three other members of the board.

3. Regular meetings may be held on any day of the month as determined by the board. Notice of the time and place of all regular meetings shall be given in writing to each member of the board by the secretary-treasurer.

4. Five elected members of the board shall constitute a quorum for the transaction of business.

5. The board shall maintain its records at the fund office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:685 (August 1990).

§305. Application Procedure, Initial Determination, and Notice

A. Application

1. All applications for disability pension and relief benefits must be made 45 days in advance of the regular monthly meeting at which the application is to be heard.

2. Application shall be made on a form made available by the board of trustees. A copy of said form follows these rules and is approved as the official form of the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

3. Documentary Evidence. Documentary evidence in support of disability applications shall be submitted in addition to the application, and may be in the form of doctors' reports, medical reports, or any other medical

evidence or statements acceptable to the board which the claimant wishes to present to assist the board in making its initial determination of benefits payable in accordance with R.S. 33:3361 et seq. Said documentary evidence shall include a medical report from the department physician.

4. Application for death benefits shall be made on a form provided for by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans. A copy of said form follows and is adopted as the official form of this board of trustees.

5. Surviving Spouses' Applications. In addition to providing medical evidence and any other statements presented to assist the board in making an initial determination, all surviving spouses who apply for pension benefits shall do so on a form furnished by the Board of Trustees of the Firefighters' Pension and Relief Fund. A copy of said form follows and is made part hereof and is adopted as the official form of the board of trustees. In addition, surviving spouses shall furnish the board with a certified copy of the member's death certificate and a notarized affidavit to the effect that the surviving spouse was married to the decedent at the time of his death and has not remarried, and also listing the names of any and all surviving children under 18 years of age. Accompanying this affidavit shall be a certified copy of the marriage certificate of the decedent and surviving spouse, and birth certificates of all children under 18 years of age.

6. Any applicant for a death benefit or survivor pension shall be awarded benefits in accordance with any other rules and regulations adopted by the board from time to time concerning entitlement thereto, and shall abide by any additional requirements set forth thereunder, as applicable.

B. Initial Determination

1. The board of trustees shall meet and make an initial determination on any application filed in accordance with these rules based upon the evidence that is presented by the claimant in support of that application.

2. After the board makes its initial determination, the applicant shall be notified of the board's determination by certified mail, return receipt requested, as to what action the board has taken. In the event the application or any part of it is denied, the member shall be advised of his right to appeal the initial determination of the board of trustees by filing such a request, in writing, within 30 days of the claimant's receipt of the advice of initial determination.

3. If a member files such an appeal, the board shall schedule a hearing within 60 days thereof before the Pension and Relief Committee, established pursuant to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:686 (August 1990).

§307. Hearing Procedures, Appeal, Oath, Testimony, Production of Records and Depositions

A. Hearings before the Pension and Relief Committee

1. The Pension and Relief Committee shall conduct a hearing in accordance with R.S. 49:956 et seq. and these rules. The applicant may represent himself or may be represented by an attorney or any other person he may designate.

2. Depositions may be used at the hearing conducted by the Pension and Relief Committee, in accordance with R.S. 49:956(6).

3. The Pension and Relief Committee, after hearing all of the evidence and considering all of the facts presented, shall then prepare a recommended decision which shall be submitted to the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans.

4. The recommended decision of the Pension and Relief Committee shall be submitted to the board within 60 days after the close of the hearing, unless, in the committee's determination, intervening circumstances preclude such prompt determination. The board of trustees shall meet to consider said recommendation, and all facts and evidence offered in support thereof, and shall either adopt said recommendation as its own or shall take such other action as it shall determine. Said decision shall be decided within 30 days after the Pension and Relief Committee submits its report, except where further documentation or evidence is required by the board to enable it to reach a decision, or due to any other unforeseeable circumstances. The applicant shall be notified of the decision of the board of trustees by certified mail, return receipt requested.

B. Oaths, Testimony, Production of Records and Depositions

1. The Pension and Relief Committee and each member thereof may administer oaths, subpoena witnesses, and compel production of books and papers pertinent to any investigation or hearing authorized by the board, pursuant to R.S. 49:956. All applications by the claimant for the issuance of subpoenas must be in the hands of the secretary-treasurer of the board of trustees in sufficient time to permit service prior to the date established for the hearing.

2. Whenever a party to a hearing now or hereafter pending before the board desires to take the testimony of a witness who resides outside of the state or who resides within the state but outside the Parish of Orleans, or who is unable to attend the hearing, the testimony of the witness, after due notice in writing to the opposing counsel or his party, a copy of which said notice shall be furnished to the Pension and Relief Committee, may be taken in a manner and form as clearly consonant as possible with the provisions of the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:686 (August 1990).

§309. Judicial Review

A. Judicial review of any final decision by the Pension and Relief Committee and/or the full board of trustees shall be reviewable in the District Court of the domicile of the board, as set forth in R.S. 49:964. No such petition for judicial review shall be filed, however, unless and until the applicant shall have first exhausted all internal fund remedies available hereunder, including the filing of an appeal contesting an adverse determination by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:686 (August 1990).

Chapter 5. Direct Rollovers

§501. Requirements

A. Notwithstanding any provision of the plan to the contrary, benefit distributions shall be made in accordance with the following direct rollover requirements and shall otherwise comply with §401(a)(31) of the *Internal Revenue Code* and the Treasury regulations promulgated thereunder, the provisions of which are incorporated herein by reference. The trustees shall allow a member to directly roll over his eligible rollover distribution which is paid directly to an eligible retirement plan as specified by the member.

B. For purposes of these rules and regulations, an *eligible rollover distribution* is any distribution from this fund of all or any portion of the balance to the credit of the member, except the following:

1. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over any one of the following periods:

a. the life of the member (or the joint lives of the member and the member's designated beneficiary);

b. the life expectancy of the member (or the joint life and last survivor expectancy of the member and the member's designated beneficiary); or

c. a specified period of 10 years or more; or

2. any distribution to the extent the distribution is required under §401(a)(9) of the Internal Revenue Code, relating to the minimum distribution requirements; or

3. the portion of any distribution that is not includable in gross income.

C. For purposes of §501, an *eligible retirement plan* is:

1. an individual retirement account under Code §408(a);

2. an individual retirement annuity under Code §408(b);

3. a qualified defined contribution plan under Code §401(a);

4. an annuity plan under Code §403(a); or

5. any other type of plan specified under the Treasury regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:742 (June 1993), amended LR 22:708 (August 1996).

§503. Distribution

A. A notice to participants conforming with I.R.C. §402(f) and all Treasury Regulations promulgated thereunder shall be provided to the member and any other person receiving a distribution by the fund who is eligible to make a direct rollover no less than 30 days, and no more than 90 days, before the date of distribution of the pension benefit. The notice shall inform the distributee that he has the right to consider his options for at least 30 days prior to making the election described in §503 of these rules and regulations and shall further inform the member or distributee that he may affirmatively waive this 30-day review period by submitting the election prior to the expiration of the 30-day period.

B. A member shall elect to have his eligible rollover distribution directly rolled over to an eligible retirement plan by completing and filing the applicable forms before the date of distribution of his pension benefits. The member, pursuant to the provisions hereunder, must specify the eligible retirement plan to which his eligible rollover distribution will be directly paid as a direct rollover. A member may revoke any election to directly roll over his eligible rollover distribution, provided such revocation is in writing and filed with the trustees before his date of distribution of his pension benefits.

C. The trustees shall accomplish a direct rollover under §401(a)(31) of the *Internal Revenue Code* by establishing reasonable procedures in accordance with the Treasury Regulations, either by a wire transfer or by mailing the distribution check directly to the eligible retirement plan specified by the member. Payment made by check must be negotiable only by the trustee of the eligible retirement plan. Payment made by wire transfer must be directed only to the trustee of the eligible retirement plan.

D. The trustees shall, in their sole and absolute discretion, distribute the eligible rollover distribution check directly to the member, instructing the member to deliver same to his designated eligible retirement plan, provided that if the eligible retirement plan is an individual retirement account, the check must be payable to the trustee, as trustee of the individual retirement account for the benefit of the distributee member; or if to a qualified retirement trust, the check must be payable to the trustee of the qualified plan for the benefit of the distributee member.

E. The member shall not directly roll over any eligible rollover distribution, or portion thereof, if the total amount of his eligible rollover distribution is less than \$200, or as such amount may be adjusted from time to time under §401(a)(31) of the *Internal Revenue Code* or the Treasury Regulations promulgated thereunder.

F. The member shall not directly roll over a portion of his eligible rollover distribution to an eligible retirement plan if such portion is less than \$200, or such other amount as provided under §503.C. The remainder of the member's eligible rollover distribution not directly rolled over shall be paid to the member.

G. The member shall directly roll over his eligible rollover distribution, or a portion thereof, only to a single eligible retirement plan. The member is prohibited from dividing his eligible rollover distribution into two or more separate distributions to be paid in direct rollovers to two or more eligible retirement plans.

H. The trustees shall treat a member's election to make or not make a direct rollover with respect to one payment in a series of periodic payments as applying to all subsequent payments in a series. The member, with respect to subsequent payments, shall at any time change his previous election to make or not make a direct rollover by completing and filing the appropriate forms with the trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:742 (June 1993), amended LR 22:708 (August 1996).

§505. Distribution to Beneficiaries

A. A surviving spouse of a deceased member shall elect to have her eligible rollover distribution directly rolled over only to an individual retirement account in accordance with the provisions hereunder.

B. A spouse or former spouse alternate payee under a Qualified Domestic Relations Order shall elect to have her eligible rollover distribution directly rolled over to an eligible retirement plan, as specified by the spouse or former spouse alternate payee in accordance with the provisions hereunder.

C. A nonspouse beneficiary of a deceased member is prohibited from electing a direct rollover to any eligible retirement plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:743 (June 1993), amended LR 22:709 (August 1996).

Chapter 7. Partial Buy Back and Partial Restoration of Forfeited Credits of Service

§701. Partial Buy Back and Partial Restoration of Forfeited Credits of Service

A. An old or new system member shall partially buy back a portion of his forfeited credits of service and shall do so by satisfying the following requirements, as set forth herein.

1. A member must have returned to employment with the fire department and remain in such employment for a period of four years or more.

2. The amount of a partial buy back, and accordingly a partial restoration of forfeited credits, shall be determined by calculating the amount the member withdrew of his accumulated employee contributions on his initial termination of employment, plus 3 1/2 percent of interest, compounded annually, for each calendar year the member retained his withdrawn accumulated employee contributions, which total amount shall be referred to as the "total buy back amount" (interest shall be prorated for any period less than a calendar year period).

a. The "total buy back amount" shall be prorated by months based on the total years of forfeited credits as follows.

Total Buy Back Amount Total Number of Months of Forfeited Credits	=	Monthly Buy Back Amount for Each Month of Forfeited Credit
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b. The annual buy back amount for each forfeited year of credit shall be determined by multiplying the monthly buy back amount by the number of years (a 12-month consecutive period) the member wishes to buy back.

3. A member may restore his total number of years of forfeited credit on a piecemeal basis, provided the member restores at least two or more years of forfeited credit, in increments of 12 consecutive months. A member is prohibited from restoring his forfeited credits of service on a monthly basis and is prohibited from restoring less than two years, unless the restoration of credits is his final restoration request or the restoration request is for his total forfeited credits.

4. A year of credit shall mean a 12-month consecutive period.

5. A member shall elect a partial buy back and partial restoration of forfeited credits of service by completing and filing the applicable forms with the trustees. A member may revoke any election for a partial buy back and partial restoration, provided such revocation is in writing and filed with the trustees.

6. The trustees shall adjust the member's years of credit service as a result of the partial restoration of forfeited credits upon receipt of the annual buy back amount for each year the member elects to restore. Until the full payment of the partial buy back amount is received by the board, no adjustment or restoration of the member's forfeited credits shall be made.

7. A member is strictly prohibited hereunder from receiving his accumulated employee contributions upon his termination of employment in a form other than a full and total lump sum payment.

8. Nothing contained herein shall be interpreted in violation of R.S. 11:3365.C and R.S. 11:3363.C nor shall the provisions hereunder be applied on a discriminatory basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3365.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:743 (June 1993).

Chapter 9. Death Benefits

§901. Definitions

A. In accordance with R.S. 11:3378, 3381, and related provisions and/or when used in these rules and regulations, the following terms shall have the following meanings.

Accumulated Contributions—contributions made by an active firefighter through monthly salary deductions. Interest shall accrue as determined by the board.

Active Firefighter—one who is still actively employed and has not yet retired.

Actuarial Equivalent of the Participant's Benefit—the actuarial cost of furnishing a single life benefit to the participant based on his years of service and salary, as defined in R.S. 11:3384 and other applicable statutory provisions.

Children—children of the participant or of the surviving spouse who are dependent upon the firefighter for support [R.S. 11:3378(D)].

Deferred Vested Firefighter—one who is vested by years of service but is no longer employed as a firefighter and is not yet receiving retirement benefits, whether or not he is yet eligible by age to retire.

Dependent or Dependent upon the Firefighter for Support—prior to the firefighter's death, he or she contributed 50 percent or more to the support of said dependent.

Legal Representatives—the person or persons designated in the first of the following classes which is applicable to the deceased firefighter in question:

- a. the surviving spouse;
- b. the surviving children;
- c. the surviving parents;
- d. if a succession has been opened, the firefighter's estate or succession;
- e. the heirs.

Vested Firefighter—person who has accumulated at least 20 years of continuous service under the new system, in accordance with R.S. 33:3381.

Widow—the surviving spouse to whom the firefighter is married at the time of death.

Widowed Mother—a parent of either sex who has survived the deaths of both the firefighter and the other parent. (R.S. 11:3390).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:183 (February 1994).

§903. Beneficiary Designations and Election of Retirement and Death Benefits

A. At the time a firefighter elects to retire, his spouse, if any, shall be furnished a copy of his retirement application and any beneficiary designation attendant thereto.

B. Any designation of beneficiary made by a firefighter pursuant to the statute shall be made, in writing, by completing the applicable beneficiary designation form required by the board.

C. Whenever a retirement benefit election includes a survivor annuity in any amount, a certified copy of the said survivor's birth certificate shall be furnished as proof of age. The retiree shall keep the board advised at all times of all changes of address of himself and said beneficiary.

D. Each firefighter in the new system and any employee in the old system electing coverage in the new system shall designate a beneficiary, in writing, and deposit it with the board of trustees.

E. Any such designation of beneficiary may be changed at any time prior to retirement but such change shall have no effect until deposited, in writing, with the board of trustees.

F. If a firefighter dies without having designated a beneficiary, in accordance with the statute, and a benefit is payable thereunder, the applicable death benefit shall be paid to the firefighter's legal representatives, as defined herein, in the order defined herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:183 (February 1994).

§905. Calculation of Death Benefits

A. If a death benefit is payable as a result of the death of an eligible participant prior to retirement, the present value of his benefit shall be calculated as if he had retired on the day before he died, except where otherwise indicated in the statute or herein.

B. The fund's actuary shall be required and authorized to calculate all benefits payable, in accordance with such assumptions as he shall have incorporated into the fund's actuarial valuations and reports; and the trustees' reliance upon his calculations of the amounts of retirement and death benefits payable shall be conclusive proof of the reasonableness of the trustees' decisions in this regard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:183 (February 1994).

§907. Preretirement Death Benefits

A. Nonduty Deaths

1. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a nonduty death, and if he had been married for two years or more at the time of his death, the surviving spouse may elect one of the following death benefits:

a. the surviving spouse shall receive an annuity payable for the duration of her life and calculated as if the employee had retired prior to death (R.S. 11:3385, Option 2, penultimate paragraph); or

b. the surviving spouse may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

2. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a nonduty death, and if the firefighter had been married for less than two years or was unmarried at the time of his death, the designated beneficiary may elect one of the following death benefits:

a. the designated beneficiary shall receive an annuity payable for the duration of his or her life and calculated as if the employee had retired prior to death (R.S. 11:3385, Option 2, penultimate paragraph); or

b. the designated beneficiary may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

3. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a nonduty death, and if the firefighter had been married for less than two years or was unmarried at the time of his death, and if the firefighter has failed to designate a beneficiary to receive any death benefits payable, a refund of the employee's accumulated contributions, in lump sum, shall be paid to the person or persons who meet the trustees' definition of *Legal Representatives*, as defined in Article I.5 hereof.

NOTE: Where no beneficiary has been designated, the legal representative will receive a refund of the employee's contributions plus interest earned thereon.

4. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a nonduty death, his designated beneficiary may elect payment to the statutory beneficiaries of the benefits set forth in R.S. 11:3378.A(2) and R.S. 11:3378.B or may elect to receive a refund of the employee's contributions.

5. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a nonduty death, and he fails to designate a

beneficiary to receive any death benefits payable, a refund of the employee's accumulated contributions, in lump sum, shall be paid to the person or persons who meet the definition of *Legal Representatives*, as defined in Article I.5 hereof.

6. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a nonduty death, and the firefighter is survived by dependent minor children or physically or mentally handicapped dependent children, each child will receive a death benefit set forth in R.S. 11:3378.A(2).

B. On-Duty Deaths

1. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, the surviving spouse shall elect one of the following death benefits:

a. the surviving spouse shall receive an annuity payable for the duration of her life and calculated as if the participant had survived till he had 20 years service at the same salary and elected to retire under R.S. 33:2117.4, Option 2 with no reduction for age at the date of retirement. The Option 2 calculation shall be based on his age and the age of his widow at the date of death (R.S. 11:3385, last paragraph); or

b. the surviving spouse may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

2. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, and if the employee is unmarried at the time of death, his designated beneficiary may elect one of the following death benefits:

a. the designated beneficiary shall receive an annuity payable for the duration of her life and calculated as if the participant had survived till he had 20 years service at the same salary and elected to retire under R.S. 11:3385, Option 2 with no reduction for age at the date of retirement. The Option 2 calculation shall be based on his age and the age of his designated beneficiary at the date of death (R.S. 11:3385, last paragraph); or

b. the designated beneficiary may elect to receive a refund of the employee's accumulated contributions, in lump sum.

3. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, and is unmarried at the time of death but has failed to designate a beneficiary, a refund of the employee's accumulated contributions, in lump sum, shall be payable to the person or persons who meet the trustees' definition of *Legal Representatives*, as defined in Article I.5 hereof.

NOTE: Where no beneficiary has been designated, the legal representative shall receive a refund of the employee's contribution plus interest earned thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:184 (February 1994).

§909. General

A. A spouse or parent may receive only one pension [R.S. 11:3378.A(1)(2)].

B. Neither a retiree nor a surviving spouse shall receive a pension less than \$300 per month (R.S. 11:3383).

C. Once a firefighter has retired and elected an optional benefit under R.S. 11:3385, neither the designated joint annuitant nor the optional form of benefit may be changed. When the survivor designated as a joint annuitant dies, no further survivor benefit shall be payable.

D. No benefit or joint annuity payable under R.S. 11:3385 shall exceed the actuarial value of the participant's benefit.

E. Unless the benefit payable is a refund of the participant's own contributions together with any interest payable thereon or is payable under R.S. 11:3378.B, no lump sum benefits shall be payable by this fund (R.S. 11:155).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:184 (February 1994).

Chapter 11. Calculation of Benefits

§1101. Definitions

A. The term *year* when appearing in the term *best year of service*, R.S. 11:3386 (formerly R.S. 33:2117.5) shall mean any 12-consecutive month period commencing on any day and date preceding the firefighter's retirement that results in the highest average compensation, as defined in §1105.A hereof.

B. The term *years* when appearing in the term *highest four consecutive years of service*, R.S. 11:3384 (formerly R.S. 33:2117.3) shall mean any four consecutive years ending on any day and date preceding the firefighter's last day of service that results in the *highest four consecutive years of service*.

C. The term *year* when appearing in the term *last year of service*, R.S. 11:3377.A(1), (2), and (3) [formerly R.S. 33:2113.1.A(1), (2), and (3)], shall mean the consecutive 12-month period ending with the day and date of the firefighter's last day of service prior to retirement.

D. The term *split* when utilized herein in regard to *year* shall mean that the *year* in question is not a calendar year and therefore ends on a day and date other than December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, 3377, and 3384.

RETIREMENT

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:785 (July 1994).

§1103. General

A. Under no circumstances shall the terms *average compensation* and *average salary* be interpreted to include more than one annual excess millage payment in any given year.

B. Under no circumstances shall a different year be utilized for purposes of calculating the value of the different components included in *average compensation* or *average salary*, except in regard to excess millage payments, as specified herein.

C. Under no circumstances shall excess millage paid to a firefighter for any period less than a full calendar year be annualized for purposes of calculating a retirement benefit, nor shall excess millage paid to the firefighter in the calendar year of his retirement be utilized in his benefit calculation unless that calendar year is also a benefit year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, 3381, 3385, and 3386.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:785 (July 1994).

§1105. Calculation of Benefit Amount

A. *Average compensation*, as appearing in R.S. 11:3386 (formerly R.S. 33:2117.5), for purposes of identifying *best year of service*, and in R.S. 11:3377.A(1), (2), and (3) [formerly R.S. 33:2113.1.A(1), (2), and (3)], for purposes of calculating the benefit attributable to the *last year of service*, shall be the sum of the following components:

1. if the year under review for purposes of calculating the firefighter's retirement benefit is a split year:

a. base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the year under review, irrespective of date of payment; plus either §1105A.1.b.i. or ii., as applicable:

b.i. if the excess millage for the last complete calendar year included in the year under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two consecutive calendar years immediately prior thereto, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last such complete calendar year is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage for the last complete calendar year included in the year under review has already been paid, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the last complete calendar year included in the year under review, irrespective of the date of payment;

2. if the year under review for purposes of calculating a firefighter's retirement benefit is a calendar year:

a. base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the current calendar year under review, irrespective of the date of payment, plus either §1105.A.2.b.i. or ii., as applicable:

b.i. if the excess millage for the calendar year under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two calendar years immediately preceding that year, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the calendar year under review is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage for the calendar year under review has already been paid to the firefighter, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the calendar year under review, irrespective of the date of payment.

B. The term *average salary* when appearing in R.S. 11:3384 (formerly R.S. 33:2117.3), for purposes of calculating the highest four consecutive years of service, shall mean:

1. if the four years under review for purposes of calculating the firefighter's retirement benefit begin and end with a split year:

a. base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the four years under review, irrespective of the date of payment; plus either §1105.B.1.b.i. or ii., as applicable:

b.i. if the excess millage payable for the last complete calendar year included in the four years under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last complete calendar year included in the four years under review, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last complete calendar year included in the four years under review is higher than that paid for the first complete calendar year utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage amount payable for the last complete calendar year included in the four years under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the last complete calendar year included in the four years under review, irrespective of the date of payment;

2. if the four years under review for purposes of calculating a firefighter's retirement benefit are calendar years:

a. base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the four years under review, irrespective of the date of payment; plus either §1105.B.2.b.i or ii:

b.i. if the excess millage payable for the last calendar year included in the four consecutive calendar years under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last calendar year included in the four years under review, irrespective of date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last calendar year included in the four calendar years under review is higher than that paid for the first calendar year included in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage amount payable for the last calendar year included in the four calendar years under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the final calendar year under review, irrespective of the date of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363-3381, 3385, and 3386.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:785 (July 1994).

Chapter 13. Service Credit

§1301. Reciprocal Recognition of Credited Service—Reciprocal Benefit

A. In accordance with R.S. 11:142, an employee shall combine his credited service accrued under a public retirement system with his credited service accrued under the Firefighters' Pension and Relief Fund for the City of New Orleans (fund) to receive a reciprocal benefit from the public retirement system and this fund, provided the provisions under R.S. 11:142 and these rules and regulations are satisfied.

1. Definitions

Employee—a firefighter eligible under the Firefighters' Pension and Relief Fund for the City of New Orleans.

Fund—the Firefighters' Pension and Relief Fund for the City of New Orleans.

Public Retirement System—any state, municipal, or parochial retirement or pension system, fund, or program offered within the state of Louisiana, other than this fund, that offers regular retirement, disability retirement, or death and survivor benefits.

Reciprocal Benefit—the prorated retirement, disability, death, or survivor benefit from this fund and a public retirement system, based on the employee's membership service credit actually accrued and credited under each respective retirement system equal to the full benefit payable from each system had the employee satisfied the minimum eligibility conditions under each system for such benefit. The terms and conditions of each retirement system shall apply to determine the employee's reciprocal benefit.

Reciprocal Benefit Application—the application form approved by the board of trustees of this fund. The application form may be obtained from the fund office.

2. Eligibility

a. In order to file a reciprocal benefit application with the board of trustees of this fund, the employee must be an active member of this fund currently making contributions to this fund. A former employee of this fund may file a reciprocal benefit application with this fund provided he is not actively contributing to this fund or to any public retirement system at the time of the filing of the application, and that this fund is the last system to which he contributed. However, an employee shall not be eligible to receive any reciprocal benefit from this fund or from a public retirement system so long as the employee continues to contribute to this fund or another public retirement system.

b. To receive a reciprocal benefit, the employee must satisfy the following conditions.

i. The employee must satisfy the eligibility requirements of the public retirement system.

ii. The employee must satisfy the eligibility requirements of this fund and must accumulate at least six months of credited service under this fund.

iii. The employee must not have previously received a refund of his employee contributions from this fund or any public retirement system. If an employee has received a refund of his employee contributions, he may repay his employee contributions plus compounded interest at the actuarial rate approved by the board of trustees, from the date of the refund of his employee contributions until the date of repayment.

iv. The employee must file a reciprocal benefit application with the board of trustees of this fund. Any other application form or document shall be unacceptable and void. An employee may rescind, cancel, or withdraw his reciprocal benefit application any time by notifying the board of trustees, in writing, of his rescission, cancellation, or withdrawal of his application.

3. Calculation of Reciprocal Benefit

a. The employee's reciprocal benefit from the public retirement system and from this fund shall be calculated as follows.

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i. The terms and conditions of this fund and the public retirement system shall apply as of the date of the employee's date of retirement, disability, or death.

ii. The benefit formula used to calculate the employee's reciprocal benefit from each system shall be the benefit formula in effect under this fund and under the public retirement system on the employee's date of retirement, disability, or death.

iii. The employee's compensation earned and accrued under this fund shall be used to calculate his reciprocal benefit from this fund. The employee's compensation earned and accrued under the public retirement system shall be used to calculate his reciprocal benefit from the public retirement system.

iv. The employee's years of service credit accrued and earned under this fund shall be used to calculate his reciprocal benefit from this fund. The employee's years of service credit accrued and earned under the public retirement system shall be used to calculate his reciprocal benefit from the public retirement system. The following shall apply to determine the years of service credit:

(a). years of service credit shall not be duplicated;

(b). an employee shall not receive more than one year of service credit during a single calendar or fiscal year; and

(c). an employee shall not accrue more than four years of military credit as service credit under this fund and no more than five years of military credit as service credit under both this fund and the public retirement system.

v. If the employee fails to accumulate the required minimum years of service under either this fund or the public retirement system, the employee's reciprocal benefit paid by that system shall be prorated accordingly. The prorated reciprocal benefit shall be calculated based on the employee's years of service actually accrued under that system, divided by the minimum years of service required under that system to receive a benefit.

b. The amount of the employee's reciprocal benefit from both this fund and the public retirement system shall not exceed:

i. 100 percent of the highest average compensation on which the benefit is based under both plans; and

ii. the highest benefit under either this fund or the public retirement system, if all years of service credit accrued under both systems were considered in calculating such benefit under each respective system.

c. If the reciprocal benefit exceeds the above limitation under §1301.A.3.b.i. or ii., then this fund or the public retirement system, if applicable, shall reduce the reciprocal benefit in proportion to the total reciprocal benefit paid from both systems.

4. Coordination of Reciprocal Benefit between This Fund and Other Public Retirement Systems

a. The trustees' approval of an application submitted to this fund for payment of a reciprocal benefit shall be in compliance with R.S. 11:142 and these rules and regulations. Upon approval of the reciprocal benefit application by the trustees, the trustees shall forward the approved application to the appropriate public retirement system in question. The trustees shall coordinate the payment of the reciprocal benefit with the public retirement system in which the employee has accumulated service credit and shall notify the public retirement system when the covered member ceases to be an active member under this fund and is thus entitled to receive a reciprocal benefit due to retirement, disability, or death. The trustees of this fund shall notify all public retirement systems of the amount of the reciprocal benefit payable from this fund and the calculation of such benefit.

b. The trustees of this fund, in their sole and absolute discretion, may agree with the trustees of the public retirement system that the payment of the total reciprocal benefit shall be made by one system and that the other system shall make appropriate reimbursement to the system making the total reciprocal benefit payment.

c. If the reciprocal benefit is payable from both this fund and the public retirement system in a lump sum form of payment, the additional lump sum benefit shall be paid in proportion to the years of credited service accrued under each system that represents the total years of credited service under both this fund and the public retirement system. The total lump sum benefit under both systems shall not be less than the greatest lump sum benefit payable under either this fund or the public retirement system. If the total lump sum benefit is less than the greatest lump sum benefit payable, the system having the greatest lump sum benefit shall pay the difference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 143, and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans and Vicinity, LR 21:566 (June 1995).

§1303. Transfer of Service Credits

A. In accordance with R.S. 11:143, an employee shall transfer any service credits accumulated under a public retirement system to the Firefighters' Pension and Relief Fund for the City of New Orleans (fund), including all employee and employer contributions and interest accrued thereon, at the rate specified herein; or shall transfer any service credits accumulated under this fund to a public retirement system, including all employee and employer contributions and interest accrued thereon, at the rate specified herein.

1. Definitions

Employee—a firefighter eligible under the Firefighters' Pension and Relief Fund for the City of New Orleans.

Fund—the Firefighters' Pension and Relief Fund for the City of New Orleans.

Public Retirement System—the following:

- i. any public retirement or pension system, fund, or program offered within the state of Louisiana;
- ii. any retirement or pension plan, fund, or program maintained primarily for officers and employees of the state of Louisiana;
- iii. any retirement or pension plan, fund, or program maintained primarily for officers and employees of any political subdivision of the state of Louisiana, or any district, board, commission, agency, or any other such public entity of the state of Louisiana.

Receiving System—

- i. this fund when it receives service credits accumulated by an employee under another public retirement system; or
- ii. the public retirement system when it receives service credits accumulated by an employee under this fund.

Transferring System—

- i. this fund when it transfers service credits accumulated by the employee under this fund to another public retirement system; or
- ii. the public retirement system when it transfers service credits accumulated by the employee under that public retirement system to this fund.

2. Eligibility

a. An employee may transfer credits from the transferring system to the receiving system upon satisfying the following conditions.

- i. The employee must have been a member of the transferring system for at least six months.
- ii. The employee must have membership credit in the receiving system at the time the receiving system receives the transferred service credit.
- iii. The employee must not have previously received a refund of his employee contributions from either the transferring system or the receiving system. If an employee has received a refund of his employee contributions from this fund, he may repay his employee contributions plus compounded interest at the actuarial rate approved by the board of trustees from the date of the refund of his employee contributions until the date of repayment.

iv.(a). If this fund is the receiving system, the employee must file an application with this fund requesting this fund to receive his service credits accumulated under the transferring system. An application to transfer credits to this fund shall be made on the application form approved by the board of trustees. Any other application form or document shall be unacceptable and void.

(b). If this fund is the transferring system, the employee must file an application with this fund requesting this fund to transfer the employee's service credits accumulated under this fund to the receiving system designated by the employee. An application to transfer credits from this fund shall be made on the application form approved by the board of trustees. The trustees shall accept, in lieu thereof, any similar written application from the receiving system designated by the employee, provided the requisite information is contained therein.

(c). At any time prior to completing the transfer of credit to the receiving system the employee may rescind, cancel, or withdraw his application by notifying the board of trustees, in writing, of his rescission, cancellation, or withdrawal.

3. Transfer of Credits from a Transferring System to This Fund as the Receiving System

a. If an employee transfers accumulated service credits from a transferring system to this fund (receiving fund), the following information with regard to the employee must be furnished to this fund from the transferring system:

- i. the total number of credits accumulated by the employee under the transferring system and dates of service, including prior years of service, military service, or any other credit accumulated under the transferring system;
- ii. the amount of contributions accumulated under the transferring system attributable to:
 - (a). employer contributions; and
 - (b). employee contributions;
- iii. an amount of interest equal to the actuarial valuation rate approved by the board of the transferring system, compounded annually, calculated from the year of contribution to the date of the desired transfer of credits attributable to:
 - (a). employer contributions; and
 - (b). employee contributions;

iv. the total of all contributions accumulated by the employee under the transferring system, plus interest attributable thereto as specified herein. If the employer contributions referred to under §1303.A.3.a.ii.(a) and §1303.A.3.a.iii.(a) are not at least a fixed percentage of the employee's earnings, the amount of employer contributions shall equal the amount of employee contributions;

v. the job classification, grade, and salary earned under the transferring system as of the date of the last contribution to the transferring system, together with all job classifications and grades held during the time any and all service credit was earned and accrued under the transferring system.

b. Upon receipt of the appropriate information from the transferring system, as set forth above, the following calculations shall be performed:

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i. the amount that would have been contributed by the employee, together with a duplicate amount designated as an employer contribution, including interest equal to the actuarial valuation rate approved by the board of trustees of this fund, compounded annually, from the date of the contribution until the date of transfer, just as if all of the employee's service credit had originally been accrued and contributions had been made in accordance with the law governing contributions to this fund;

ii. the total amount that would be transferred to this fund from the transferring system based on the total amount of all contributions and interest earned thereon, as further provided under §1303.A.3.a.

c. If the total of the amount determined under §1303.A.3.b.ii is equal to or greater than the amount determined under §1303.A.3.b.i, the trustees shall approve the transfer of the employee's service credit upon payment of the amount calculated under §1303.A.3.b.ii from the transferring system to this fund.

d. If the total amount determined under §1303.A.3.b.i is greater than the amount determined under §1303.A.3.b.ii, the trustees shall not approve said transfer of service credit unless:

i. the employee pays to this fund the deficit or difference between the sums calculated under §1303.A.3.b.i and §1303.A.3.b.ii, including both employer and employee contributions, plus interest compounded thereon, equal to the actuarial valuation rate approved by the board of trustees of this fund; or

ii. in lieu of paying said deficit or difference, the employee, at his option, may elect to have his transferred service credit prorated under this fund, as calculated by the trustees, based on the amount of funds that would be transferred to this fund from the transferring system, including the amount of all contributions and interest earned thereon, as further provided under §1303.A.3.a. Said election may be made only at the time of transfer.

e. Notwithstanding the above provisions, the trustees shall not approve any application for transfer of credits to this fund from a transferring system unless the assets transferred, as determined under §1303.A.3.b.ii, amount to at least 100 percent of the increase in accrued liability that is occasioned by the employee's transfer to this fund, as calculated by the trustees and their consulting actuaries. However, the trustees shall approve any such application if the employee pays the difference in said accrued liability.

f. Credits transferred to this fund in accordance with §1303.A.3 shall be counted toward the eligibility requirement of 20 years of service under R.S. 11:3381 and R.S. 11:3384 to entitle the employee to a retirement benefit from this fund.

g. If an employee accumulates a combined total of 20 or more years of service credit after the transfer of service credits to this fund from a transferring system, and at such

time the employee is continuing to make employee contributions in accordance with the law governing employee contributions to this fund under R.S. 11:3365.A, the employee shall no longer be subject to R.S. 11:3365.A pertaining to employee contributions through salary deductions and shall not be required to submit employee contributions to this fund thereafter. An employee who accumulates more than a combined total of 20 years of service credit after the transfer of credits to this fund from a transferring system shall not be entitled to apply any excess employee contributions resulting therefrom as a credit, refund, or offset against any deficiency or disparity that may result under §1303.A.3, even though the combined total years of service credit, after the transfer of credit to this fund, exceed 20 years of service credit.

h. If the employee had accumulated under the transferring system any free service credit, he may transfer said credit to this fund only upon payment to this fund of the employee and employer contributions that would have been earned during the same period had the employee been a member of this fund, plus interest compounded thereon, equal to the actuarial valuation rate approved by the board of trustees of this fund from the date the contributions would have been due until the date paid. Said payment must be made at the time of transfer.

i. In calculating the retirement benefit of an employee who transfers service credit to this fund from a transferring system, in accordance with R.S. 11:143 and these rules and regulations, the trustees and their consulting actuary shall use the retirement percentage factor of the transferring system, based on the number of years of service credit transferred.

j. In the event an employee should die after filing with this fund his written application for transfer of credits from the transferring system to this fund, the trustees shall complete the transfer of service credit provided, however, that the application complies with R.S. 11:143 and with these rules and regulations. The trustees shall consider the application completed as of the day before the death of the employee.

4. Transfer of Credits from This Fund as the Transferring System to the Receiving System

a. If an employee transfers accumulated service credits from this fund (transferring system) to the receiving system designated by the employee, the following information with regard to the employee shall be furnished to the receiving system from this fund:

i. the number of credits accumulated under this fund and dates of service, including prior years of service, military service, or any other service credit;

ii. the amount of contributions accumulated under this fund as the transferring system attributable to:

- (a). employer contributions; and
- (b). employee contributions;

iii. the amount of interest equal to the actuarial valuation rate approved by the board of trustees of this fund, compounded annually, calculated from the year of contribution to the date of the desired transfer of credits attributable to:

- (a). employer contributions; and
- (b). employee contributions;

iv. the total of all contributions accumulated under this fund as the transferring system, plus interest attributable thereto, as specified herein. If the employer contributions referenced in §1303.A.4.a.ii.(a) and §1303.A.4.a.iii.(a) are not at least a fixed percentage of the employee's earnings, the amount of employer contributions shall equal the amount of employee contributions;

v. the job classification, grade, and salary earned under the transferring system at the date of the last contribution to the transferring system, together with all job classifications and grades held during the time any and all service credit was earned and accrued under the transferring system.

b. If the trustees should receive notification from the receiving system that it has approved said transfer of service credits, the trustees shall transfer to the receiving system the total contributions and interest accumulated thereon, as specified herein.

c. In the event an employee should die after filing his written application with this fund or the receiving system designated by the employee for transfer of service credits from this fund to the receiving system, the trustees shall complete the transfer of service credit provided, however, that the application complies with R.S. 11:143 and with these rules and regulations. The trustees shall consider the application completed as of the day before the death of the employee.

5. General Provisions

a. After an application is completed, this fund, as the transferring system, shall have no future liability with respect to any employee who elects to have his service credits transferred from this fund to a receiving system. Similarly, any transferring system transferring service credits to this fund, as the receiving system, shall have no future liability with respect to any employee who elects to transfer credits to this fund.

b. The trustees shall not consider any request for transfer of a deceased employee's credits if the request is made by his survivor, heir, or estate.

c. In the event an employee completes a transfer of service credit in accordance with R.S. 11:143 and these rules and regulations, and either retires with a benefit or takes a deferred retirement from this fund or from any other public retirement system, and subsequently becomes employed in employment that would otherwise render him eligible to participate in a public retirement system which has previously transferred credit, he shall not be permitted, under R.S. 11:143.H, to become a member of said public

retirement system. Accordingly, the trustees shall not permit membership in this fund of any employee who has retired with a benefit or has taken a deferred benefit from any other public retirement system if this fund has previously transferred credits for that employee.

d. The trustees, in their sole and absolute discretion, shall assess an actuarial transfer fee in such amount as they may deem fit and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 143, and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans and Vicinity, LR 21:566 (June 1995).

§1305. Sick and Annual Leave

A. A member may elect to utilize any sick and annual leave that he has accrued for purposes of obtaining additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:294 (February 2000).

Chapter 15. Deferred Retirement Option Plan

§1501. Definitions

A. In connection with R.S. 11:3385.1 and when used in these rules and regulations, the following terms shall have the following meanings.

Board or Board of Trustees—the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

Covered Employment—service pursuant to R.S. 11:3361 as a firefighter employed by the fire department of the city of New Orleans actively engaged in the extinguishment of fires.

Creditable Service—pension credits accrued in the fund by a member on the basis of services rendered in covered employment. Solely for purposes of eligibility in the DROP, creditable service shall include service credit reciprocally recognized under R.S. 11:142.

DROP—established in R.S. 11:3385.1 for eligible members of the Firefighters' Pension and Relief Fund for the City of New Orleans.

DROP Account—an individual member's accumulation of monthly service retirement benefits payable to him by the fund during a period of DROP participation in accordance with the member's service retirement benefit election.

Fund—the Firefighters' Pension and Relief Fund for the City of New Orleans.

Fund DROP Account—the bank account held by the fund on behalf of all participating DROP members in which are deposited the monthly payments payable on behalf of each member for his individual DROP account during his participation in the DROP.

Member—a firefighter employed by the fire department of the city of New Orleans who is actively engaged in extinguishing fires, or is otherwise eligible pursuant to R.S. 11:3361 to participate in the fund.

Qualified Domestic Relations Order or QDRO—an order issued by a court of competent jurisdiction recognized and approved by the board pursuant to its rules and regulations relating to QDROs as requiring the board to make payment of a part or all of a member's retirement benefit to an alternate beneficiary.

Retired Member—a former member receiving retirement benefits from the fund, but not including a DROP participant who is not yet eligible to receive a distribution from his DROP Account.

Service Retirement Benefit—the vested benefit of a member payable from the new system under R.S. 11:3384 or from the old system under R.S. 11:3381.

Year of Creditable Service—a period of 12 consecutive months of pension credit accrued in the fund by a member on the basis of services rendered in covered employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:703 (August 1996), amended LR 26:290 (February 2000).

§1503. Eligibility

A. In order to satisfy eligibility to participate in the DROP, the member shall satisfy the following conditions.

1. The member shall have accrued not less than 20 years of creditable service, including not less than 15 years of creditable service accrued in this fund, plus any reciprocal credit reciprocally recognized by the board under R.S. 11:142.

2. The member shall satisfy all eligibility requirements for a service retirement benefit.

3. The member shall file with the board and the board shall approve the member's service retirement benefit application.

4. The member shall file and the board shall approve the member's DROP enrollment application.

5. By submitting a DROP enrollment application, the member shall automatically elect to participate in the DROP for the full five-year period. Nonetheless, the member may exit the DROP at any time by filing with the board an application to withdraw from the DROP, effective upon the board's approval.

B. A member may participate in the DROP only once, except as otherwise provided in §1505.T.

C. The member's application to enter the DROP shall request retirement on the first day of a calendar month and shall specify a requested effective date no earlier than the first day of the second calendar month following the

calendar month in which the DROP enrollment application is submitted. The service retirement application and the DROP enrollment application shall not be submitted to the board for consideration and approval until such time as all required and requested data, documentation, and information have been submitted to the board in order to complete both the service retirement and the DROP enrollment applications. Such participation shall be limited to a maximum period of five years, i.e., 60 calendar months, as to each individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:703 (August 1996), amended LR 26:290 (February 2000).

§1505. Participation in and Withdrawal from the DROP

A. The effective date of a member's entry into the DROP shall be the first day of the second calendar month following the calendar month in which the member initially files his DROP enrollment application, providing, however, that:

1. the member has completed submission of any and all requested data, documentation, and information to the board in connection with the DROP enrollment application and the service retirement application no later than the seventh of the first calendar month (or the first work day following this date if the seventh of the first calendar month falls on a holiday or weekend) following the submission date; and

2. the board has considered and formally approved said applications prior to the requested effective date.

B. Upon the effective date of the member's DROP participation, the fund shall distribute monthly benefit payments pursuant to the member's service retirement award into the member's DROP account.

C. Upon a member's commencement of participation in the DROP, his membership in the fund shall terminate and he shall accrue no additional creditable service during DROP participation.

D. No employer contributions shall be made to the fund on behalf of a member participating in the DROP, nor shall the member be required to make employee contributions to the fund.

E. A member's compensation and creditable service shall be frozen when the member enters participation in the DROP and shall thereafter remain as they existed on the effective date of the member's commencement of participation in the DROP.

F. A member participating in the DROP shall not be eligible to receive the cost-of-living adjustments awarded by the fund from time to time to retired members. Eligibility for cost-of-living adjustments shall not commence until the member has been separated from covered employment for one full year.

G. A member's DROP account shall not be charged, debited, or assessed any fees, charges or similar expenses of any kind for any purpose, nor shall the account be subject to diminution based on valuation or earnings losses of any kind during the member's participation in the DROP. In addition, no such fees, charges, losses, or other similar charges shall be charged, debited, or assessed against the member indirectly, during the member's participation in the DROP.

H. A member's DROP account shall not earn or accrue any interest, gains, or earnings of any kind, nor shall the member accrue such earnings indirectly, during his DROP participation. Upon completion of participation in the DROP, and regardless of whether the member terminates employment with the fire department, the DROP account will earn interest each year based on a five-year rolling average of the composite rate of return of the pension fund, minus an administrative fee of no more than 2 percent, to be deducted from the member's DROP account each year.

I. Pursuant to R.S. 29:415.1, a member shall not accrue any military service credit or pension credit based on military service performed during a member's participation in the DROP.

J. The duration of participation in the DROP shall not exceed a period of five consecutive years, i.e., 60 consecutive calendar months, measured from the effective date of commencement of participation in the DROP.

K. A member may terminate his participation in the DROP to be effective as of the last day of any calendar month prior to the end of the maximum five-year period by filing with the board of trustees of the fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month. Nevertheless, in the event the board determines, based on all facts and circumstances at issue, that justice so requires and equity so warrants, the board shall be fully authorized, entirely in its discretion, to approve termination of a firefighter's participation in the DROP effective upon a date earlier or later than would otherwise apply.

L. If a member participating in the DROP does not terminate his covered employment upon completion of five years of participation in the DROP or upon the effective date of his approved withdrawal prior thereto, payment of the member's service retirement benefit into the member's DROP account shall automatically cease. In the event the member has failed to notify the board of his intent to continue in his covered employment after the effective date of his DROP completion, the board shall notify the member, in writing, at his last known address, that the fund has ceased monthly payments into his DROP account.

M. If the member should die during his period of participation in the DROP, a lump sum payment of the balance in the member's DROP account shall be paid to his designated beneficiary, or if none, to his estate upon written application to the fund office. Any additional survivor and/or death benefits payable to the member's beneficiary or beneficiaries, in accordance with the member's individual

retirement election, all applicable statutory provisions, and the board's rules and regulations pertaining to death benefits, shall also be subject to distribution.

N. No distribution shall be made from a member's DROP account until the member's covered employment has been fully terminated. A member's DROP account shall not be distributable at any time during the member's DROP participation or at any time prior to the member's separation from covered employment, even if the member has exited from the DROP.

O. Upon termination of covered employment, distribution of the member's DROP account may be made as a one-time lump sum payment, in a series of periodic or non-periodic payments, or as a partial lump sum payment with periodic distributions of the balance, all as allowed herein. Allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55. Direct rollovers are subject to the fund's current rules and regulations and IRS guidelines.

1. Members Retiring before the Calendar Year in which the Member Reaches Age 55

a. A member who does not rollover his DROP account may withdraw 100 percent of his account balance at any time after termination of covered employment upon written notice to the fund office. For a member who retired before the calendar year in which the member reached age 55, and who is at the time of the distribution under age 59 1/2, the distribution of the member's taxable portion of his account balance will be subject to an early distribution penalty of the IRS equal to 10 percent of the taxable distribution.

b. A member may elect to receive his DROP account balance (including both taxable and non-taxable portions), as a series of equal periodic (at least annual) payments over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. Such periodic distributions over life expectancy are not subject to the 10 percent early distribution penalty; however, the distributions are subject to normal taxation on the taxable portion.

i. Upon the member's attainment of age 59 1/2 the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrence of the 10 percent early distribution penalty until the member reaches age 70 1/2 at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in Subsection P herein.

c. A member may elect to receive 100 percent of the non-taxable portion of his DROP account in one lump sum payment, and the balance of the DROP account as a series of equal periodic payments (at least annual) over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. No 10 percent penalty is assessed on this type of distribution.

RETIREMENT

i. Upon the member's attainment of age 59 1/2 the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrance of the 10 percent early distribution penalty until the member reaches age 70 1/2, at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in Subsection P herein.

d. A member may elect to receive his distribution in a manner other than a series of equal periodic payments based upon his and/or his beneficiary's life expectancy; however, if the member is under age 59 1/2 at the time of such a non-periodic distribution of a taxable amount of the DROP account, any such distribution will be subject to a 10 percent early distribution penalty, as well as a recapture penalty. The recapture penalty provides for a 10 percent additional tax on all taxable distributions received by the member since retirement, inclusive of monthly retirement benefits and any prior distributions from the member's DROP account.

i. Non-periodic distributions may be made no more than four times in a calendar year, and then only on the first day of each fiscal quarter (March 1, June 1, September 1 and December 1). All non-periodic distributions must be a minimum of \$1,000. For any distribution, the member must provide the fund office with written notice no later than 30 days prior to the first business day of the fiscal quarter.

2. Members Retiring during or after the Calendar Year in which the Member Reaches Age 55

a. Any member terminating covered employment during or after the calendar year in which the member reaches age 55 may elect any of the options available under Subparagraph O.1 above without being subject to the 10 percent early distribution penalty or recapture penalty. All other rules regarding non-periodic payments apply. In order for the fund to comply with federal law regarding the mandatory commencement of retirement benefits, distributions from a member's DROP account must commence no later than April 1 of the calendar year following the calendar year in which the member reaches age 70 1/2. These minimum distributions are accomplished by a monthly DROP distribution which is calculated to distribute the entire balance of a member's DROP account over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his designated beneficiary. Distributions above those which are mandatory are allowable, subject to the fund's current rules.

i. Members terminating covered employment during or after the calendar year in which the member reaches age 55, who are now over age 70 1/2, are eligible to receive distribution of all or any portion of the DROP account exceeding the mandatory distributions, subject to fund's current rules.

P. Members and their beneficiaries may defer receipt of a distribution from the DROP account indefinitely, subject to the Internal Revenue Service's mandatory distribution rules.

Q. Upon termination of covered employment, the member may file an application with the board requesting distribution of his DROP Account on the first day of any calendar month following the calendar month of termination. Provided, however, that the requested distribution date shall be no earlier than the second calendar month following the calendar month of termination.

R. In the event a member validly elects to rollover all or any part of his DROP distribution to a qualified plan or an individual retirement account, said distribution shall not be made until at least 30 days after the member has acknowledged, in writing, receipt of the applicable explanation to employees and notice relating to rollover, direct rollover, income averaging treatment, and tax consequences upon distribution, or compliance with any timeliness requirement subsequently established by applicable law, if different. Any such election shall be made in compliance with the board's rules and regulations of direct rollovers and all applicable provisions of the Internal Revenue Code then effective.

S. Upon termination of covered employment, the monthly benefits that were formerly paid into the member's DROP account during his period of participation shall be paid directly to the retired member.

T. The member shall not be permitted to change, revoke or rescind the retirement benefit distribution option selected and/or the beneficiary or beneficiaries he designated upon entering into the DROP regarding his service retirement benefit nor shall any such change be permitted at the time the DROP account is distributed. However, a member who is participating or has participated in the three-year DROP and has continued in active employment with the fire department, may elect, on or before December 31, 1999, either to extend his participation in the DROP for the remainder of the five-year period beginning on the date he entered the DROP, or to revoke his participation in the DROP. In the event the member elects to extend his participation in the DROP, any period of time he has been out of the three-year DROP will be included in calculating the five-year DROP period. In the event the member elects to revoke his three-year DROP participation, the member's entire DROP account, including any interest earned, will be returned to the fund, and the member will be placed in the same position as if he had never elected to participate in the DROP. The member will be considered to have been an active employee in the system, and all creditable service and compensation earned during the period of the revoked DROP participation will be credited toward the member's new benefit calculation. If the member chose any option other than the single life annuity when he originally entered the DROP, his spouse must consent to the revocation and any subsequent election, other than a joint and survivor annuity option. However, no action by the member nor decision by the board may circumvent a previously approved QDRO.

U. If the member does not terminate his covered employment upon completion of the maximum five-year participation period or upon such earlier date as the member has specified for withdrawal:

1. monthly service retirement benefit payments into the DROP account shall cease; and

2. the member shall resume active membership in the system; and

3. the member shall commence accrual of additional creditable service under the system; and

4. the member's DROP account will begin to earn interest each year based on a five-year rolling average of the composite rate of return of the pension fund, minus an administrative fee of no more than 2 percent, which will be deducted from the member's DROP account each year. The interest rate will be determined by the fund actuary at the end of each calendar year, but will be effective beginning the subsequent fiscal year (July 1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:704 (August 1996), amended LR 23:1145 (September 1997), LR 26:293 (February 2000).

§1507. Post-DROP Accruals and Retirement Benefits

A. If a member continues in covered employment after termination of his participation in the DROP, the member shall accrue a second retirement benefit based on his additional covered employment performed following the date of termination of his DROP participation, using the normal method of computation of benefits, subject to the following conditions.

1. New System Member

a. If the member originally retired from the new system, and his period of additional covered employment after termination of DROP participation is less than 48 months, the average compensation figure used to calculate the additional benefit accruals shall be that used to calculate the member's original benefit.

b. If the member originally retired from the new system, and his period of additional covered employment after termination of DROP participation is 48 months or more, the average compensation figure used to calculate the additional benefit accruals shall be based on the member's compensation earned during the period of post-DROP service.

2. Old System Member

a. If the member originally retired from the old system and his period of additional covered employment is less than 12 months, the average compensation figure used to calculate the additional benefit shall be that used to calculate the member's original benefit.

b. If the member originally retired from the old system and his period of additional covered employment is 12 months or more, the average compensation figure used to calculate the additional benefit shall be based on the member's compensation during the period of additional service.

3. If the member was first employed before December 31, 1967 but originally elected to retire from the new system, that election shall also apply to and determine the additional benefits accrued for post-DROP service.

B. The distribution option under R.S. 11:3385 originally selected by the new system member upon entering into the DROP shall also apply to any additional benefits accrued during the period of additional covered employment.

C. The beneficiary designated by the member upon entry into the DROP shall also be the beneficiary or beneficiaries designated in connection with the additional benefits accrued; however, in the event the member's designated beneficiary has predeceased the member, the member may designate a new beneficiary or beneficiaries for purposes of the additional retirement benefit only.

D. If, following a period of additional covered employment performed after leaving the DROP, the board determines that the member is disabled pursuant to R.S. 11:3376 and is therefore eligible to receive a service-connected disability benefit, the following terms and conditions shall apply.

1. The amount of the service-connected disability benefit shall be in the same amount and calculated as a service retirement benefit based only on the credited service accrued subsequent to the date of the member's termination of participation in the DROP.

2. The fund shall distribute to the member, upon his written application to the fund office, a lump sum payment in an amount specified by the member. Provided, however, that the member may not elect to withdraw an amount less than \$1,000, or more than the balance in his DROP account at the time the application is filed with the board of trustees.

3. The member's monthly benefit payments attributable to both the original and the additional benefits shall be paid directly to the retiree.

4. All monthly benefits paid and payable to the member, as well as his DROP account balance, shall be classified by the fund as service-connected disability benefits and shall be so reported on all necessary filings made by the fund to the Internal Revenue Service.

5. Under no circumstances shall the original benefit amount or the DROP account balance be recalculated, for any purpose.

E. In no event shall the member's additional retirement benefit exceed an amount which, when combined with the original benefit, equals 100 percent of the average of any three highest consecutive years of compensation earned by a member who elected to retire under the old system, or 100 percent of the average of any four highest consecutive years of compensation earned by a member who elected to retire under the new system, both during participation and after withdrawal from the DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:705 (August 1996), amended LR 26:294 (February 2000).

§1509. Trustees' Procedures Applicable to Payments to DROP Accounts

A. The procedures herein set forth shall govern the monthly payments owed by the fund to each member's DROP account during his participation in the DROP.

B. The board shall maintain a detailed accounting of each individual DROP account on behalf of each member currently participating in the DROP. Each month that a payment is due on behalf of the member, the board shall show a credit to the member's account and shall maintain a current balance showing the total credit to each member's account. At such time as the balance maintained in an individual member's DROP account shall exceed \$95,000, the board shall make all subsequent monthly payments directly to a separate fund bank account to be known as the excess DROP account to be established at a bank other than the fund's then current custodian bank in order to preserve full FDIC pass-through insurance for all participating members. An accounting of all such deposits exceeding \$95,000 per member and the balance to the credit of each such individual DROP participant in the separate excess DROP account shall be maintained. The sum of the participant's balances in both banks, plus any accrued earnings, less any applicable administrative fee, shall be the total to be distributed to the Participant at such time as a distribution is due.

C.1. Old System. At such time as the board furnishes to the city of New Orleans the required annual report, pursuant to R.S. 11:3375, of projected retirements, distributions, and other data necessary for the council to appropriate a budget allocation for each subsequent year, the board shall include in such projections all benefit obligations projected by the board relative to members retiring from the old system and entering or remaining in the DROP and shall include the projected monthly payments payable to fund DROP accounts for the benefit of all DROP participants.

2. New System. In regard to those members retiring under the new system, at such time as the fund's actuary certifies, pursuant to R.S. 11:3363.D, the annual amount of contributions required to be paid by the city of New Orleans for the subsequent year in order to maintain the new system on an actuarial basis, the fund actuary shall include therein actuarial projections relative to all anticipated benefit obligations projected for members retiring from the new system and entering or remaining in the DROP and shall include the projected monthly payments payable to fund DROP accounts for the benefit of all DROP participants.

D. When a member enters the DROP, a book transfer shall be made each month of the payment owed by the fund to each DROP participant until such time as the balance in the member's DROP account reaches \$95,000. Thereafter, the board shall cause a payment to be made each month from regular fund assets to the excess DROP account on behalf of that member, representing the amount of his monthly service retirement award.

E. The board shall maintain complete accounting records documenting all payments, receipts, and distributions to and from the fund's excess DROP account, as well as a detailed record of the amount held and accumulated in each member's individual DROP account on behalf of each individual participant in the DROP, and the dates of all transactions related thereto. Nevertheless, all payments to the excess DROP account for the benefit of DROP participants shall be maintained in a joint account for all members, and the board shall not maintain individual or segregated bank accounts on behalf of each member.

F. The fund's actuary shall record in his annual actuarial valuation performed on behalf of the fund relative to the old and the new systems the amount of assets held each year in the excess DROP account for the benefit of all members currently participating.

G. On an annual basis, or more frequently should the board so determine, all earnings accrued in the excess DROP account shall be transferred from the excess DROP account to the fund's general bank account, to be invested or utilized as a general asset of the fund. However, an accounting of all interest earned by the DROP account of any member whose DROP participation has terminated, but who has not yet received a distribution of the full amount of his DROP account, shall be made no less frequently than annually.

H. No payments, disbursements, or deductions of any kind shall be made from the assets held in the excess DROP account other than distributions owed to individual members or their beneficiaries and the transfer of earnings held in the excess DROP account to the fund's general assets, as described in §1509.G.

I. All costs, expenses and fees payable in connection with DROP participation and/or maintenance of excess DROP account during a member's DROP participation, including any bank charges associated with the maintenance thereof, shall be paid, if and when due, only from the fund's general assets and from bank accounts other than the excess DROP account. However, upon a member's completion of DROP participation, regardless of whether he terminates employment with the fire department, his DROP account, if left with the fund, will be charged an administrative fee of up to 2 percent per year.

J. All assets held either in the fund's general account or in the excess DROP account on behalf of DROP participants shall be held, recognized, and treated as fund assets until such time as distributions approved by the board are made therefrom. No individual member participating in the DROP, or any person claiming through him, shall have any personal ownership, interest, or entitlement in any fund account, including the excess DROP account, until such time as a distribution is made to or on his behalf by the board.

K. All DROP assets held in the fund's general account or in the excess DROP account shall be exempt from seizure, levy, sale, garnishment, attachment, or any other process whatsoever, and shall be exempt from state and municipal taxes, except as follows.

1. The board shall honor all QDROs recognized by the board as valid pursuant to its procedural rules and regulations for determining status of qualified domestic relations orders, in accordance with the terms, conditions, and effective dates specified in each such individual order.

2. The board shall honor any such levy, garnishment, or other process validly served upon it in the event the board determines, based on advice of its counsel, that the process in question is based on statutory, administrative, judicial, or other authority or precedent that preempts and/or supersedes the provisions of R.S. 11:3389.

L. At such time as distributions are made by the fund to participants, beneficiaries, or other persons claiming through them, the payments shall be subject to federal, state, and municipal taxation, and to levy, garnishment, seizure, sale, attachment, or any other process whatsoever that is applicable to any other distribution or payment made to a retired member. However, any distribution of the balance contained in a member's DROP account shall also be subject to federal income tax and withholding treatment under the rollover provisions of the Internal Revenue Code, the regulations issued thereunder by the Internal Revenue Service, and the board's rules and regulations of direct rollovers, in the event the member or a qualified beneficiary should elect rollover treatment.

M. In the event a DROP participant has failed to keep the fund advised of his current address and whereabouts at a time when a distribution is due from the member's DROP account, the fund shall forward the distribution to the member's last known address, via certified mail. If said mailing is returned to the fund, the fund shall hold said mailing and check in the participant's file until such time as the board receives additional information sufficient to permit distribution. Any such distribution shall be made as a direct payment to the individual member, unless the member shall have validly elected to make a direct rollover to a qualified plan or a financial institution, in which event said election shall be honored.

N. If the board is unable to effect the required distribution because of the member's failure to advise the fund of his current address, or for any other reason not directly attributable to the fund's intentional action or inaction, neither the fund nor the board shall be responsible or liable for any loss, prejudice, expense, or other consequences, including tax liability or consequences, attributable to the fund's inability to distribute. No matter how long the board is required to hold the distribution due to such member failure, no interest, gains, or earnings of any kind shall be payable thereon.

O. At such time as a participant requests or the fund is required to effect any distribution of a member's DROP account balance, the board shall furnish to the member the applicable notice and explanation to employees relating to direct rollover, income averaging treatment and tax consequences upon distribution required under Internal Revenue Code §402(F) and Internal Revenue Service Notice Number 92-48, such notice to be furnished in accordance

with the time delays and other requirements therein specified, as amended from time to time. Currently said statutory provisions and Internal Revenue Service Notice require that the notice and explanation to employees be furnished no later than 30 days prior to the date the DROP account is distributable.

P. Neither the board nor the fund shall give, distribute, or offer to any member or participant on the fund's behalf any advice, counseling, or information concerning taxability and tax consequences, or financial information pertaining to DROP distributions, other than the general summation reflected in the fund's explanation and notice to employees. Instead, the fund and the board shall advise the member that the rules applicable to distributions of lump sum amounts for a member's DROP account are complex and confusing and may prompt the member, in his individual discretion, to seek advice from a competent professional tax advisor or from the member's local Internal Revenue Service office, which, from time to time, may distribute publications relative to retirement distributions and related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:706 (August 1996), amended LR 26:294 (February 2000).

§1511. General

A. Consistent with the provisions of R.S. 11:3361 et seq., the board shall have full and complete authority and discretion to determine the eligibility of any member to enter the DROP and to receive a DROP distribution and to make any other determinations pertaining thereto, consistent with all applicable statutory provisions, applicable jurisprudence published thereunder, and all rules and regulations adopted by the board from time to time, including these rules and regulations pertaining to the DROP.

B. Should the board determine that a member is ineligible to participate in the DROP or should it make any other determination pertaining to the DROP that is considered by the member, a beneficiary, legal representative, or other person claiming through the member to be adverse or in any way prejudicial, the injured person shall be entitled to pursue an appeal before the board in accordance with the appeal procedures set forth in the fund's summary plan description. At the time any decision is issued to the board member, whether or not the board considers it to be adverse to the claimant, the claimant shall be advised, in writing, of such entitlement to request rehearing and of the time delays and other requirements to be observed in connection therewith.

C. No member, beneficiary, legal representative, or other person claiming through the member shall be entitled to pursue judicial review of any board determinations reached in regard to DROP entitlement and other issues pertaining to DROP participation, exit from the DROP, benefit distributions from the DROP, and related matters unless the claimant shall first have exhausted all internal fund appellate

and review procedures and the board has issued a final decision, and then only in accordance with applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:707 (August 1996).

Chapter 17. Election Rules

§1701. Nominations

A. Election for positions on the board of trustees as described in R.S. 11:3362(A)(2) and (3) will be held in the second week of December every two years on odd numbered years. Elected members will be seated on the second Wednesday in January of the following year.

B. Notices for nomination will be carried in monthly fund minutes, beginning in August of any election year.

C. Nominations for vacant positions will be accepted from eligible members in writing during the second week in November (Monday-Friday, 9 a.m.-4 p.m.) in the fund office. The fund office will forthwith notify all nominees of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1703. Election Committee

A. All members nominated for the board will automatically become members of the election committee for the election in which they have been nominated. The committee will serve until the next election is held. On the Wednesday following the close of nominations, the election committee will meet to review all the rules of the election. The committee can discuss procedures but will not have the authority to change any rules for any election. Any committee member may offer recommendations or rule changes for any subsequent election, which shall be recorded in the minutes of the committee or a special report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1705. Ballot Procedure

A. Ballots with security envelopes and return envelopes will be mailed out on the fourth Monday in November, subject to the following controls.

1. Outgoing postage receipt of total mailing will be kept at the pension office.

2. The listing of all members mailed ballots will be kept at the pension office. Any member may inspect, but not copy, the voter mailing list.

3. The election committee will make available to members with the number of names added to the list after the initial mailing and the number of duplicate ballots mailed to members who did not receive the original ballot.

4. The election committee will account for all ballots (used and unused).

B. All ballots must be returned, signed, no later than 4 p.m. on the second Wednesday in December, subject to the following controls.

1. Ballots will be verified for eligibility by pension office staff daily.

2. The election committee will have authority to check for eligibility prior to counting of ballots.

3. A current account of envelopes returned will be preserved.

4. Ballots will be placed in two secured ballot boxes at the pension office. Separate boxes will be maintained for active and retired members.

5. Each ballot box will be secured with two different locks. The election committee will designate two incumbent members and two non-incumbent member nominees to control the keys to all four locks.

C. The following voting instructions and procedures shall apply.

1. Each member will receive an official ballot with voting instructions.

2. A blank security envelope and a self-addressed stamped envelope addressed to:

Firefighters' Pension and Relief Fund
329 South Dorgenois Street
New Orleans, LA 70119

3. Members must vote for only the specified number of candidates in the appropriate sections. Members may vote for less than the specified number, however, voting in excess of the specified number, in the appropriate section, will spoil the ballot for that section.

4. Members should place their ballot in the security envelope, then seal the envelope. The security envelope should then be placed inside the self-addressed, stamped envelope.

5. Members must sign the self-addressed envelope in the upper left corner in the space provided. A member's signature shall serve as proof of eligibility. Any envelopes not signed will be rejected.

6. All ballots must be returned signed, to the fund office, no later than 4 p.m. on the second Wednesday in December.

D. All ballots will be counted at the fund office at 9 a.m. on the Thursday following the deadline for ballots to be returned, subject to the following conditions.

1. The election committee shall report to the pension office no later than 8:30 a.m.

2. The election committee is to oversee the counting of ballots.

3. The election committee is responsible for accuracy of votes counted.

E. Envelopes and ballots will be maintained and preserved at the pension office for three months following any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1707. Installation of Elected Members

A. Newly elected board members will be seated at the meeting held on the second Wednesday in January of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1709. Election Inquiries

A. Any questions from members regarding the election should be directed to the election committee, in writing, addressed care of the fund secretary-treasurer.

B. The election committee may propose comments, suggestions and recommendations on any changes for the next election to be held following the election under its supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1711. Special Elections

A. Special elections must be called within 30 days of any vacancy on the board, caused by death, resignation or otherwise. The foregoing rules for regular elections shall apply to all special elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

Chapter 19. Partial Lump-Sum Option Payment

§1901. General Rules for Participation

A. Upon application for retirement, a participant may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus

an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal monthly retirement benefit times 60.

B. The member's monthly retirement will be actuarially reduced based on the lump-sum amount withdrawn and the member's age at retirement. The partial lump-sum benefit, together with the member's reduced normal retirement benefit, must be actuarially equivalent to the member's normal retirement benefit as set forth in R.S. 11:3384.

C. The cost of living adjustment (COLA) granted by the board of trustees to retirees who elect to receive a reduced retirement benefit and a partial lump-sum benefit shall be based only on the reduced retirement benefit and shall not be based on the partial lump-sum benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.2.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000), amended LR 30:1684 (August 2004).

§1903. Distributions from Partial Lump-Sum Option Payment

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are eligible for rollover as is the case with DROP accounts. Similarly, any amount of the partial lump-sum option payment left with the fund shall be subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrence of the 10 percent early distribution penalty. In the event any PLOP remains on deposit with the fund, all distribution rules applicable to DROP accounts apply, including the 10 percent early distribution penalty or recapture penalty, if applicable.

C. A member who retires during or after the calendar year in which the member reaches age 55 may receive distribution of his PLOP account in accordance with rules applicable to DROP accounts, will not be subject to the 10 percent early distribution penalty or recapture penalty, but will be subject to those DROP rules requiring mandatory distributions of the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.2.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000), amended LR 30:1684 (August 2004).

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Part VII. School Employees' Retirement System

Chapter 1. Administration of Act 416 of 1976

§101. Rules for the Administration of Act 416 of 1976

A. This system will recognize only that retirement service credit in those state, municipal, and parochial retirement systems domiciled in the state of Louisiana and which were created under the laws of the state of Louisiana or created by the Louisiana Legislature for employees covered under these systems.

B. Withdrawal of funds from any system voids the reciprocal recognition of service agreement.

C. Withdrawal from any system where the recognized service in another system was necessary to make an individual eligible for membership voids the membership of such individual, as well as the reciprocal recognition of service agreement.

D. Repayment of refunds, and interest thereon, to reestablish service credit must be paid in full to all systems named in the application before the application for reciprocal recognition of service credit will be accepted as a valid application, regardless of when submitted.

E. Recognition of creditable service for the purposes of this Act does not include recognition or acceptance for any other purpose than those enumerated and specified in Act 416 of 1976 Regular Session.

F. *Lump sum benefit*, as used in this Act, shall refer to the supplementary allowance provided in R.S. 17:913C.

G. The last beneficiary designation on file in this agency will be the beneficiary of record for this system, whether filed before or after the repayment of a refund or a reciprocal recognition of service agreement.

H. Recognized creditable service from other systems and creditable service in this system will be converted to whole years and partial years, with partial years expressed as a percentage of a year.

I. The service referred to in Paragraph F(2) refers only to those systems where the years of service determines the percentage benefit (e.g., after 20 years a person may retire with 60 percent of his best three years, or after 25 years a person may retire with 75 percent of his best three years, etc.), and therefore, is not applicable to benefits or computations of benefits from this system.

J. *Pro rata portion* and *proportion* used in this Act shall be based on the maximum benefit in each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the School Employees Retirement System, LR 3:76 (February 1977).

Chapter 3. Interest Rates

§301. Interest Rates Charged on Purchases of Service Credit

A. All cost computations on and after July 20, 1985 for all active members to gain retirement credit will be done on an 8 percent compound interest rate.

B. The only exceptions to the 8 percent compound interest rate will be credit for active military service, which has a 5 percent compound interest rate in the legislative provision.

C. A review of the interest rate being used will be made in January of each year. Should a change of rate be agreed on after the review, the new rate will become effective July 1 of that same year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165.

HISTORICAL NOTE: Promulgated by the Department of Treasury, School Employees' Retirement System, LR 11:705 (July 1985).

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RETIREMENT

Part IX. State Police Retirement System

Chapter 1. Service Credit

§101. Military Service Credit

A. The Board of Trustees of the Louisiana State Police Retirement System will grant military service credit for active duty service spent in the United States Reserves or the National Guard. Such credit will be granted only for active

duty service prior to September 9, 1977. Any active duty service in the U.S. Reserves or National Guard after September 9, 1977 may be purchased in accordance with R.S. 40:142(B)2.b and c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:142(B)2.b and c.

HISTORICAL NOTE: Promulgated by the Department of Treasury, State Police Retirement System, LR 7:122 (March 1981).

Title 58

RETIREMENT

Part XI. Parochial Employees' Retirement System

Chapter 1. General Provisions

§103. Definitions

A. The following definitions shall apply in this Part.

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an individual retirement account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an Individual Retirement Account or individual retirement annuity. An eligible retirement plan shall also mean an annuity contract described in Internal Revenue Code Section 403(b) and an eligible plan under Internal Revenue Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

Eligible Rollover Distribution—

a.i. any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

ii. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

iii. any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

iv. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities;

v. a hardship distribution.

b. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution or qualified defined benefit plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:1491 (July 2004).

Chapter 3. Eligibility

§301. Persons Not Eligible for Membership; Leased Employees

A. Leased employees or persons considered by the system as leased employees of an employer shall not be eligible to participate. Leased employee shall mean any person who is not employed by an employer and pursuant to an agreement between the employer and any other person or entity ("leasing organization") has performed services for the employer (or for related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:1492 (July 2004).

§303. Creditable Service; Uniformed Services Employment and Reemployment Rights Act

A. If a member takes a leave of absence to serve in the U.S. armed services, the terms of which are governed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), then upon the member's return to employment with the employer within five years from the leave of absence, the member shall be permitted to make the member contributions called for under the system as if the member had continued employment, and if so made, the member shall be given creditable service under the system

for that period of time. The member contributions to the system as permitted under this Section shall be made ratably over a period of time equaling the period the member was in the U.S. armed services, but in no event shall such period exceed five years. If the returning member makes the member contribution, the employer shall be required to make an employer contribution to fund the employer's portion of the creditable service given to the returning member. The amount of the member's contribution and the employer's contribution shall be determined by the system's actuary. A member who does not return to employment with his employer shall not be affected by this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:1492 (July 2004).

Chapter 5. Scope of Benefits

§501. Limitation on Payment of Benefits

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. the life of the member's designated beneficiary or the joint and last survivor lives of the member and his designated beneficiary;
- c. the member's life expectancy;
- d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary shall be his spouse. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.

B.1. If the member dies before his benefit has commenced, the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 1/2 years. If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph 1 shall be applied as if the surviving spouse were the member. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age 18.

3. Paragraph 1 shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection B.

C. If a survivor benefit is payable to a specified person or persons or if a benefit is payable at death under an option elected pursuant to R.S. 11:1932, the member shall be considered to have designated such person as a designated beneficiary hereunder. If there is more than one such person, then the oldest such person shall be considered to have been so designated, or, if none, then the oldest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

D. Distributions from the system shall be made in accordance with the requirements set forth in Internal Revenue Code Section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

E.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

F. The provisions of this Section shall be effective July 1, 1987.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:1492 (July 2004).

§503. Early Payment of Benefits

A. In the event of plan termination, the benefit of any highly compensated employee including an active highly compensated employee and a former employee who was a highly compensated employee, is limited to a benefit that is nondiscriminatory under Internal Revenue Code, Section 401(a)(4) (see 26 U.S.C. 401 et seq.)

B.1. For plan years beginning on or after January 1, 1991, benefits distributed to any of the 25 most highly compensated active and former highly compensated employees are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the employee under a single life annuity that is the actuarial equivalent of the sum of the employee's accrued benefit and the employee's other benefits under the plan.

2. Subsection A of this Section shall not apply if:

- a. after the payment of the benefit to an employee described in Paragraph 1 of this Subsection, the value of plan assets equals or exceeds 110 percent of the value of

current liabilities as defined in Internal Revenue Code Section 412(1)(7); or

b. the value of the benefits for an employee described above is less than 1 percent of the value of current liabilities.

3. For purposes of this Section, benefit includes loans in excess of the amount set forth in Internal Revenue Code Section 72(p)(2)(A), any periodic income, any withdrawal values payable to a living employee, and any death benefits not provided for by insurance on the employee's life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:509 (March 2004).

§505. Compensation Limited

A. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994 and before January 1, 2002, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code (see 26 U.S.C. 401 et seq.). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

B. For plan years beginning on or after January 1, 1994 and before January 1, 2002, any reference in this plan to the limitations under Internal Revenue Code Section 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 annual compensation limit set forth in this Section.

C. If compensation for a prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the Omnibus Budget Reconciliation Act of 1993 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit is \$150,000.

D. For plan years beginning on or after January 1, 2002, the annual compensation limitation (Section 401(a)(17) of the Internal Revenue Code) for the determination of a

retirement allowance shall not exceed \$200,000, as adjusted for cost-of-living under paragraph 401(a)(17)(B) of the Internal Revenue Code. If compensation for a prior period is taken into account in determining a member's benefits accruing in the current plan year, the compensation for the prior period shall be subject to the compensation limit for the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), amended LR 30:1492 (July 2004).

§507. Transfer of Benefits

A. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provisions of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to a retirement plan specified by the distributee in a direct rollover.

B. If a distribution is one to which Sections 401(a)(11) and 417 of the Internal Revenue Code (see 26 U.S.C. 401 et seq.) do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Federal Income Tax Regulations is given, provided that:

1. the plan administrator clearly informs the participant that the participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

2. the participant, after receiving the notice, affirmatively elects a distribution.

C. The following definitions shall apply.

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p), are *distributees* with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an individual retirement account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

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Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

c. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:509 (March 2004), repromulgated LR 30:1046 (May 2004).

§509. Computation of Retirement Benefits

A. This Section is intended to comply with Internal Revenue Code Section 415. It shall cover only those who become members for the first time on or after January 1, 1990, and those qualified participants for whom the benefit is increased after October 14, 1987, to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

B. The normal retirement benefit of a member of Plan A shall not exceed the amount set forth in R.S. 11:1942, the normal retirement benefit of a member of Plan B shall not exceed the amount set forth in R.S. 11:1962, and the normal retirement benefit of a member of Plan C shall not exceed the amount set forth in R.S. 11:1972.

C.1. Qualified Participant shall mean a member of the system who first became a member before January 1, 1990. In the case of the merger of, or transfer of assets and benefits of a member or members from, another plan maintained by an employer which joins this system, the accrued benefit under such predecessor plan shall be the accrued benefit referred to above, and the member shall be considered a qualified participant if his participation in such predecessor or merged plan commenced on or before January 1, 1990.

2. All employers contributing to the system on behalf of their employees, and all employers who may join the system, as a condition of such joining, shall elect, and such election is hereby implemented, to have the limitations of Internal Revenue Code Section 415(b) other than Paragraph 2G thereof applied without regard to Paragraph 2F thereof, which limitations are set forth in Subsection D. Such limitations shall apply to all members who are not qualified participants as described herein and to qualified participants to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

D. The retirement benefit of any member of the retirement system who is not a qualified participant, as defined in Paragraph C.1 and which is not attributable to the member's after-tax employee contribution, when expressed as an annual benefit may not exceed the lesser of \$90,000 per year or 100 percent of such member's average compensation for his highest three years. For purposes of determining whether a member's benefit exceeds this limitation, the following shall apply.

1. Adjustment if Benefit Not Single Life Annuity

a. If the normal form of benefit is other than a single life annuity, such form shall be adjusted actuarially to the equivalent of a single life annuity. This single life annuity shall not exceed the maximum dollar or percent limitations outlined above.

b. No adjustment is required for the following:

- i. qualified joint and survivor annuity benefits;
- ii. pre-retirement disability benefits;
- iii. pre-retirement death benefits.

2. A member's retirement allowance shall be limited to \$160,000. The \$160,000 amount shall be adjusted for members retiring before age 62 or after age 65 under Internal Revenue Code Section 415(b)(2). The benefit limitation in the foregoing sentence shall be further adjusted by multiplying such limitation by the cost of living adjustment factor prescribed by the secretary of the Treasury under Internal Revenue Code Section 415(d) in such manner as the secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

3. Adjustment for Less than 10 Years of Creditable Service

a. If retirement benefits are payable under this retirement system to a member who has less than 10 years of creditable service in the retirement system, the dollar limitation referred to in the first Paragraph of this Subsection (\$90,000) will be multiplied by a fraction, the numerator of which is the member's number of years of creditable service in the system (not greater than 10), and the denominator of which is 10.

i. Effective for plan years beginning on or after January 1, 2002, "\$160,000" will be substituted for "\$90,000" above.

4. Annual Adjustment. The limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under Internal Revenue Code Section 415(d), such adjustments not to take effect until the first day of the fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a

nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to limitations applicable after October 14, 1987.

5. Member or Participant in More than One Plan. If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limits provided in this Subsection.

6. Total Annual Benefits Not in Excess of \$10,000. Notwithstanding the preceding provisions of this Subsection, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of this Subsection if:

a. the retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed \$10,000 for the plan year, or for any prior plan year; and

b. the employer has not at any time maintained a defined contribution plan in which the participant participated.

7. Average Compensation

a. For purposes of R.S. 11:1942, 1962, and 1972, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as defined in R.S. 11:231 and unreduced by amounts excluded from income for federal income tax purposes by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h), or 457 or any other provision of federal law of similar effect.

b. For purposes of Subsection D, average compensation shall include total compensation payable by the employer and included in the employee's income for federal income tax purposes and shall exclude amounts not includable in the member's gross income by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h) and 457 or any other provision of federal law. A member's highest three years shall be the period of consecutive calendar years (not more than three) during which the member both was an active participant in the plan and had the greatest aggregate compensation from the employer.

8. Treasury Regulation Applicable. That portion of the benefit designated herein which is attributable to member contributions shall be determined in accordance with Treasury Regulations §1.415-3(d)(1).

E. All member contributions required to be made to this system shall be considered for tax purposes as contributions made pursuant to Internal Revenue Code Section 414(h)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), amended LR 30:1493 (July 2004).

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